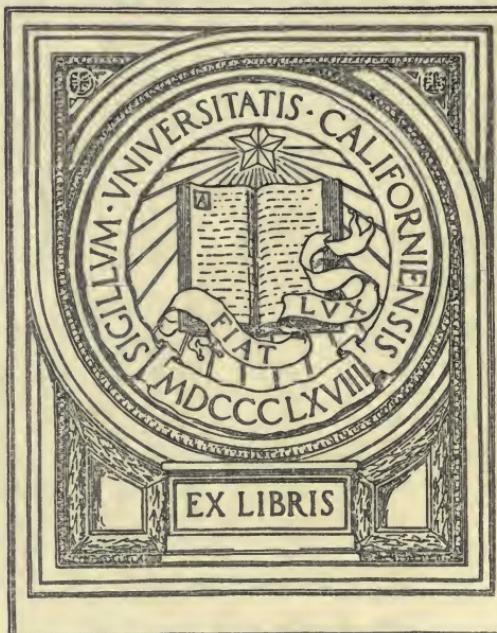


SPECIAL REPORT
OF THE
ATTORNEY-GENERAL
OF THE
State of California
RAILROAD TAX CASES AND RAILROAD TAXATION

1893

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California. Attorney general's office

SPECIAL REPORT

OF THE

ATTORNEY-GENERAL

OF THE STATE OF CALIFORNIA,

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SPECIAL REPORT

ON

RAILROAD TAX CASES AND RAILROAD TAXATION.

ATTORNEY-GENERAL'S OFFICE,
SACRAMENTO, January 17, 1893. }

To the Hon. H. H. MARKHAM, Governor of the State of California:

SIR: The Legislature being now in session, I herewith respectfully submit a special report concerning the railroad taxes remaining unpaid by various railroad companies in this State since the adoption of the new Constitution. In this connection your attention is called to what has already been stated upon the subject of "railroad tax cases" in my report to you, dated September 15, 1892. Although no proposition has been made, except as appears by the communication to me from E. L. Craig, Esq., of the law department of the Southern Pacific Railroad Company, under date of January 12, 1893, hereinafter set forth, to settle the taxes, I make this report and collate facts and figures regarding these matters so as to place the subject intelligibly before you and the Legislature.

The following report regarding unpaid railroad taxes and railroad tax litigation, pertains only to the Southern Pacific system of railroads. The tabulation in the Appendix hereof shows the taxes for each year from 1880 to and including 1892, the sums at which each road was assessed, and the amount of the State and county taxes. There also appear herein two statements, which were used as Exhibits "A" and "B," in the case of *John Rooney vs. E. C. Marshall, Attorney-General, et al.* (69 Cal. 647), and portions of the reports of former State Controllers, regarding railroad taxes, so as to advise you and the Legislature as to the then condition of affairs.

The correspondence above alluded to is as follows:

"LAW DEPARTMENT S. P. CO.,
SAN FRANCISCO, CAL., January 12, 1893. }

"Hon. W. H. H. HART, Attorney-General:

"DEAR SIR: I am in receipt of your favor of this date referring to the pending controversies between the people of the State and the railroad companies composing what is known as the Southern Pacific System, in regard to taxes, and the suggestions heretofore made on behalf of the companies of a purpose to submit some proposition for an adjustment of the same, and inquiring whether I am now prepared to submit such a proposition in their behalf.

"In answer to your inquiry, I will say that while the companies referred to are desirous of promoting a speedy settlement of these controversies upon such terms as shall be fair to both parties, an examination of the subject has convinced me that it will be useless for the companies to submit any proposition covering the whole matter and involving any degree of compromise, because of the very serious doubt as to the authority of any executive officer of the State to accept the terms that might be proposed, so as to bind the State and relieve the companies from further controversy in regard thereto.

"As I understand it, there are those in authority who claim on behalf of the State that nothing short of the full payment by the companies of the amounts assessed against them respectively since the controversies began, with all the cumulative penalties and costs incurred in the proceedings had to enforce the assessments, will relieve the com-

panies and their properties from the lawful demands of the State. This claim is made, notwithstanding the fact that for the series of years up to and including 1884, nearly if not quite all of the suits have been determined either by judgment in favor of the companies, or by judgments against them which have been fully paid; and that for the years following, up to and including 1887, it is claimed by the companies that the assessments unlawfully included the Federal franchises of the aided roads, and thereby rendered the assessments void as to them. The fact that the Federal franchises were so included up to and including the years 1885-6 is, I think, undisputed by any one, and whether they were so included in 1887 is, in fact, now being litigated between the parties. The effect in the case referred to, of the judicial finding upon this controverted fact, must be so controlling that I do not think either party is likely to make to the other a proposition of settlement which will be accepted.

"The situation is further complicated by the fact that in addition to the suit brought in the name of the State for the entire tax claimed to be due to the State and counties for the year 1887, suits have been commenced by the several counties for their alleged proportions of the tax, thus subjecting the companies to a double litigation as to each county tax.

"The only other case now pending is that of the *People vs. The San Pablo and Tulare Company*, before the Supreme Court of the United States. The very small amount involved in this case is insufficient to warrant further controversy, and the other reasons which were supposed to justify it seem to me no longer to exist.

"In view of the fact that the railroad companies referred to as under the Southern Pacific management have for five years last past been promptly paying their taxes as levied, and propose to continue so doing, and the further fact that a decision of this case, even if adverse to defendant, cannot possibly affect the main questions involved in the other litigated cases, I think that the question in this case will have ceased to be important to either party if the taxes are paid in full, with 5 per cent penalty claimed, and legal interest from the date of alleged delinquency to the time of payment, together with all costs that may be chargeable therein—in other words, if the company pays to the State and counties all that can by any possibility be recovered in the event of a judgment in favor of the people.

"I understand that some two years or more ago this company tendered full payment to the State of these taxes, and that its officers declined to accept the payment.

"I now renew, to you, the offer to pay these taxes, penalties, interest, and costs, which if it be accepted, will remove at least one of the irritating questions between the parties, and tend to promote an adjustment of the others.

"To this I will add that I understand that the company's counsel, at the time of entering into the stipulation under which this case was taken up, contended, and have ever since claimed that the record in the case was not such as to necessitate a decision upon the point which the counsel for the State desired to have settled; and that since the stipulation was entered into the Supreme Court of this State has rendered a decision in relation to the statutory provisions for the collection of taxes upon which this action was founded, which if adopted by the Supreme Court of the United States, as is usual upon such questions, may reasonably be expected to result in an affirmation of the judgment upon these minor propositions, and without a decision upon the main question supposed to be presented and sought to be settled.

"Inasmuch as there can be no question of your official right to receive in settlement of this case all that could by any possibility be recovered in it, I submit to your professional and official judgment this offer to settle the case last mentioned, and as soon as the technical doubts as to any authority to settle the remaining cases shall have been removed, as I have no doubt they can be, I will submit a proposition in the hope of settling all other pending questions.

"Respectfully yours,

E. L. CRAIG."

For convenience this report on railroad tax cases and railroad taxation is subdivided as follows:

First—Taxes of 1880 to 1884, inclusive.

Second—Taxes of 1885 to 1887, inclusive, no part of which has been paid.

Third—Taxes of 1888 to 1892, inclusive, all paid so far as due.

FIRST.

TAXES OF 1880 TO 1884.

Statements numbered 1 and 2 in the Appendix hereof show the assessed value of the various railroads in the State for the years 1880 and 1881, as appears by the State Controller's report for the thirty-

second and thirty-third fiscal years, page 23. Said report shows that for 1880 the railroad taxes for State purposes were \$199,514 50, and the delinquent taxes for State purposes \$196,805 81; for the year 1881 the amount of taxes for State purposes was \$228,134 31 and delinquent taxes for State purposes \$220,317 61. Thus it appears that only a small portion of the taxes, and those by one or two roads, were paid. In reference to this matter the Controller, Hon. D. M. Kenfield, states (p. 23):

"In order to comprehend how great was the injustice done to the revenue of the whole State it must be understood that in addition to the delinquent State taxes, there was also a delinquency of the railroads to the several counties in the taxes of 1880 of \$351,894 68, and of 1881 of \$349,039 50; making a total delinquency of State and county taxes for the two years of \$1,118,057 60.

"Since the delinquency of 1881, the San Francisco and North Pacific Railroad Company paid, under protest, their taxes delinquent of that year, amounting to \$8,528 10, and the North Pacific Coast and South Pacific Coast have each paid its taxes due for 1880, amounting to \$7,285 39; these amounts representing the State portion of the tax. Since the close of the last fiscal year, there has also been paid, in the various counties, by several of the railroad companies, about 60 per cent of the tax for the respective years, 1886 and 1881, as follows:

"Central Pacific Railroad Company, in Sacramento and Merced Counties, \$33,855 78. State portion, \$13,105 62.

"Southern Pacific Railroad Company, in Kern County, \$57,530 48. State portion, \$16,021 93.

"Sacramento and Placerville Railroad Company, in Sacramento and El Dorado Counties, \$12,105 82. State portion, \$4,381 56.

"Amador Branch Railroad Company, in Sacramento County, \$3,421 09. State portion, \$1,476 78.

"California Pacific Railroad Company, in Sacramento and Yolo Counties, \$9,267 03. State portion, \$4,003 55.

"Northern Railway Company, in Yolo County, \$5,545. State portion, \$2,391 63.

"Vaca Valley and Clear Lake Railroad Company, in Yolo County, \$2,419. State portion, \$1,044.

"Making a total on account of State taxes of \$58,239; leaving due the State for taxes of years 1880 and 1881, a balance of \$358,884 42.

"It is not surprising that the failure of the railroads to pay their taxes should have caused widespread consternation. The whole revenue system of the several counties was disarranged thereby; the ordinary obligations of the counties could not be fully met, and in many of the counties the public schools were closed for want of funds.

"A serious phase of the subject is, that in most of the counties the Boards of Supervisors considered the propriety of reducing the valuation fixed by the State Board of Equalization, in which body the Constitution fixed solely the power to assess railroads; and in the counties of Alameda, San Mateo, Yolo, and Sacramento, the Boards of Supervisors did reduce the assessment of railroads apportioned to them by the State Board of Equalization.

"To test the rights of such action by the County Boards, a case, at the instance of the State Board, was brought before the Supreme Court of this State.

"The Court rendered its decision, holding that the County Boards, in reducing assessments, acted in violation of the Constitution.

"I have done all that lay in my power to force the collection of the railroad taxes, but without success. The ordinary process of collecting taxes is to offer the property for sale, depending on bidders to purchase the property. From the nature of the railroad property, it was thought that it was not probable that any purchaser could be found to purchase a portion of a road located in a county.

"I therefore had recourse to the provisions of Section 3899 of the Political Code, which reads as follows: 'The Controller may, at any time after a delinquent list has been delivered to a collector, direct such collector not to proceed in the collection of any tax on said list amounting to three hundred dollars, further than to offer for sale but once any property upon which such tax is a lien. Upon such direction, the collector, after offering the property for sale once, and there being no purchaser in good faith, must make out and deliver to the Controller a certified copy of the entries upon the delinquent list relative to such tax; and the Tax Collector or the Controller, in case the Tax Collector refuses or neglects for fifteen days after being directed to bring suit for collection by the Controller, may proceed, by civil action in the proper Court, and in the name of the people of the State of California, to collect such tax and costs.'

"The next section provides for a form of complaint for the issue of a writ of attachment, and for ten per cent counsel fees.

"It will be seen that the control of such suits was in the hands of either the collector or Controller, and that no suit could be begun until the property had been offered once for sale.

"It must also be remembered that the whole delinquent property must be offered for sale within four weeks after the first publication of the sale.

"In 1880, after the several collectors had published the delinquent lists, I made an order directing each collector to offer the railroad property but once for sale, and if there were no bidders to withdraw the property from sale.

"In the meantime a stockholder in the Central and Southern Pacific Railroad Company, an alleged resident of New York, began actions in the District Court of the United States against each collector to enjoin him from offering the property of said companies for sale.

"After the time had elapsed for the collector to offer the property for sale, the injunctions were dismissed, but thereby the jurisdiction of the Controller to direct the beginning of actions was lost.

"I made like orders in 1881, for the withdrawal of the railroad property from sale after being offered once. A short time before the period of such offering the companies sued out writs of injunction against the several collectors. These suits were begun in the Superior Courts of San Francisco, and, of course, had the effect to delay the action of the collector until the time had passed within which he could act. Upon a hearing, Judge Waymire dismissed the suit against the collector of the county of Sacramento, and it was expected that the other writs would be dismissed in time for the collectors to offer the property for sale.

"After the writ of injunction against the collector of Sacramento County had been vacated, and he was about to offer the property of the Central Pacific Railroad Company for sale for taxes for 1881, the attorney for the railroad company went to Alameda County, and obtained from Judge Green, of the Superior Court, a writ of prohibition against the collector, prohibiting him from proceeding with the sale.

"For the reason, therefore, that the railroad companies, by the machinery of law, prevented the accruing of the right of the Controller to sue, I have been unable to collect the taxes, both of 1880 and 1881.

"As I showed before, if the Controller had been permitted to sue, the suits would have been under his control, and the means to enforce the action would have been found in the ten per cent counsel fees to be paid by the defendants.

"In the session of 1880 an Act was passed by the Legislature providing that in an action began in any county for the collection of delinquent taxes, the county may sue in its own name for the recovery of the taxes, whether it be for county or State purposes, or either of them.

"In the summer of 1882, I received advices that the railroad companies were offering to compromise their taxes by paying into the county treasuries 60 per cent of the taxes due, and that many of the Boards of Supervisors were contemplating accepting such offers. No law could be found authorizing directly such compromise. Moreover, the dread that the State would insist on the county paying to the State the whole of the State taxes due, doubtless deterred the Board from accepting the offer.

"Another plan, however, was adopted. The Supervisors of several of the counties directed the District Attorneys to begin action under the Act of 1880, against the companies for taxes due in 1880 and 1881. Suits were begun in Sacramento, Merced, Kern, Yolo, and El Dorado Counties. The Supervisors of said counties directed the District Attorneys to compromise the suits by accepting 60 per cent of the taxes due, and allowing judgment to be entered for that amount, the companies paying the amount of the judgment into the County Treasury.

"In the case of the County of San Mateo against the Southern Pacific Railroad Company, for the collection of State and county taxes for the year 1881, a decision has recently been filed by Justice Field, of the Circuit Court of the United States, wherein it is decided that the Constitution of this State is unconstitutional in so far as it provides for the present mode of assessment of railroads by the State Board of Equalization. If this decision is sustained by the Supreme Court of the United States, the State Constitution will have to be amended in order to assess the various railroads of the State.

"Pending the decision of the cases carried to the Supreme Court of the United States, I earnestly recommend that a different system of collecting the tax from railroad companies should be adopted. The law requires the State Board of Equalization to apportion the tax among the counties in the ratio that the number of miles of railroad in the county bears to the whole number of miles of the road in the State; to make a statement of the amount apportioned, with a description of the track and right of way in the county; this statement to be entered on the assessment book verbatim. In the event of the taxes upon the railroad property becoming delinquent, there is no provision how the Tax Collector shall sell, and he offers the property in like manner as he does real estate. The purchaser would take such portion of the road as might be in the county, but his relation to the company is not determined, and being so indefinite, must involve him in litigation. The plan which I propose, and which I think is perfectly feasible, is as follows:

"First—The State Board of Equalization shall assess the franchise, roadway, roadbed, rails, and rolling stock of railroads operated in more than one county.

"Second—The Board shall apportion such assessment among the several counties entitled thereto in the ratio as is at present prescribed.

"Third—The Board shall make an entry of such assessment, describing the road sufficiently well to identify it, and the apportionment of the same, in a book to be called the Assessment Book of the State Board of Equalization.

"Fourth—Such book shall then be transmitted to the Controller, who at the proper time (or such duty may devolve upon the Board, as at present) shall notify the Board of

Supervisors of the amount of assessment apportioned to the county, as a basis for county taxation.

“*Fifth*—The Controller shall calculate, and carry into a column, in the book, the amount of taxes due the State.

“*Sixth*—As soon as the rate of county tax is fixed by the Board of Supervisors, the Auditor of the county shall notify the Controller of such rate.

“*Seventh*—The Controller shall then calculate the amount due the county, and carry the amount into a column prepared for the purpose.

“*Eighth*—Each railroad company must settle with the Controller for its taxes, and pay the amount into the State Treasury.

“*Ninth*—The State Controller and Treasurer shall credit each county with the amount due the county on account of taxes paid by the railroad companies, and notify the County Treasurer thereof.

“*Tenth*—In the event of any railroad company failing to pay its taxes, the Controller to have authority to prosecute an action for the State tax and the county taxes due, in one suit, prescribing the form of complaint so that there shall be no failure for want of form.

“As railroads operated in more than one county are assessed as a whole, it does not appear to me that the interests of the State are best subserved by dividing the collection of the tax into as many parts as there are counties through which the road passes.

“I think that the plan of placing the collection of taxes upon railroads, assessed by the State Board of Equalization, under one authority, is one that will command itself. I trust that the Legislature will give my suggestions consideration.”

Statements Nos. 3 and 4 in Appendix hereof, show the unpaid taxes of 1882 and 1883, upon the Southern Pacific and Central Pacific systems of railroads, except as paid to Attorney-General Marshall, as hereinafter more particularly mentioned.

By State Controller Dunn’s report for the thirty-fourth and thirty-fifth fiscal years, it appears (page 24) that upon February 12, 1884, there was due and remaining unpaid for former years to the State of California and the several counties from the Central Pacific and Southern Pacific systems of railroads, the sum of \$2,730,303 39. (This sum includes all penalties, interest, and costs up to that date.) Upon this subject the Controller in his report states:

“For the year 1883, with the single exception of the North Pacific Coast Railway, every railroad in the State, other than the Central and Southern Pacific systems, paid its taxes in full; and in addition the Central Pacific paid in full for that year upon these branches: Amador branch, Sacramento and Placerville, Vaca Valley and Clear Lake, and the Santa Cruz Railroad Company (owned by the Pacific Improvement Company), amounting, for State purposes, to \$3,697 68, leaving a delinquency against the Central and Southern Pacific systems for State purposes, for that year of \$18,423, and for State and county purposes, \$555,628 46, on the face of the tax. To this must be added 5 per cent penalty, 2 per cent per month interest, together with costs and attorney’s fees.

“It is unnecessary for me to recount the struggles made by the State in earnest endeavors to collect these taxes. It is history that must be fresh in the mind of every one. Nor is it necessary here to recapitulate the various proposals put forward by these corporations, in the way of propositions to evade the payment of their taxes.

“Transactions called compromises have been entered into between these corporations and certain officials, whereby a sum less than that due has been accepted as payment of the taxes levied. But I have refused to accept the payments thus made. I did so because I believed that, as an officer of the State, I had no right to accept less than the whole amount due the State.

“Acting upon this conviction, I notified the Treasurers of the various counties interested that this office would not make settlements of these taxes for less than the full amount due. I also advised the Auditor and Treasurer of Contra Costa County to refuse to accept the taxes tendered them by the Attorney-General, who thereupon began suits to compel acceptance. At my instance, Hon. W. W. Foote represented the Contra Costa officials in the Courts; the case is as yet undecided. The heavy hand of the law is laid upon the house and home of the farmer, and the owner of city and town homes, for delinquency, and the property is sold at tax sale; and is there any good reason why railroad property should be exempted from the severe penalties imposed upon other classes of property for delinquency? Is it of loftier or holier character than the homes and firesides of families? Let the certainty be established that legal clouds will fall upon the title to this class of property through sale on account of delinquency, and that redemption profits such as accrue to purchasers of other kinds of property will ensue, and railroad delinquency and obstinacy will end together.

“I heartily concur in the recommendation of my predecessor that the commencement and control of all suits against railroad corporations for taxes be put in the hands of the Controller.

"The attorney's fees provided for by law are ample, thus saving the State against any expense whatever, and the great time, labor, and careful research required in the preparation and presentation of these cases will occupy more time than can be devoted to them by officials having all the other great interests of the State to protect."

The Central Pacific and Southern Pacific Railroad systems were also assessed for the taxes of 1884. I have tabulated the mileage, assessed value per mile, number of miles in the State and each county, total assessment for State and in each county, the amount of tax levied for the State and each county, the amount paid, and the several amounts delinquent, which tabulation appears in the Appendix hereof as statement No. 5.

The Controller, Hon. John P. Dunn, in his report for the thirty-sixth and thirty-seventh fiscal years (page 24), says:

"As shown by my last biennial report, there was due at that time from the Central and Southern Pacific railroads and branches, for the years 1880, 1881, and 1882, \$1,029-675 57. Of this amount there was paid to Attorney-General Marshall, and by him paid to the State and to various County Treasurers (in the way of partial payments), the sum of \$470,476 08, besides other settlements, which, added to this, leaves unpaid for these years the sum of \$416,252 28, as shown by reports on file in this office.

"For 1883 the amount delinquent was \$555,628 46, of which there has been paid \$333-377 13, leaving yet unpaid \$222,251 33.

"For 1884 the amount was \$653,373 12, of which \$329,520 63 has been paid, leaving yet due \$323,852 49."

The following exhibit shows in detail the amounts paid (as already given) into the State Treasury by the Attorney-General, E. C. Marshall, from the several roads, and for the years named, together with the amount that thereby was apportioned to the respective funds to which the moneys belonged:

*Amount of Delinquent State and County Taxes Paid into the State Treasury June 19, 1886,
by E. C. Marshall, Attorney-General.*

Names of Railroads.	Taxes of 1880.	Taxes of 1881.	Taxes of 1882.	Taxes of 1883.	Taxes of 1884.
California Pacific Railroad				\$15,580 56	\$14,172 09
Northern Railway-----	\$1,985 12	\$2,100 09	\$1,415 50	17,373 13	15,646 93
San Pablo and Tulare R. R.	3,053 57	3,505 56	2,658 16	6,044 81	5,295 80
Stockton and Copperopolis Railroad	2,811 85	2,793 77	1,662 15	2,453 22	
Southern Pacific Railroad	27,239 99	27,755 64	28,778 45	125,806 31	124,720 81
Central Pacific Railroad-----				166,119 10	169,685 00
Totals -----	\$35,090 53	\$36,155 06	\$34,514 26	\$333,377 13	\$329,520 63

RECAPITULATION.

Taxes 1880-----	\$35,090 53
Taxes 1881-----	36,155 06
Taxes 1882-----	34,514 26
Taxes 1883-----	333,377 13
Taxes 1884-----	329,520 63
Total -----	\$768,657 61
Less express charges from San Francisco to State Treasury-----	384 36
Net amount paid State Treasurer -----	\$768,273 25

[NOTE.—Page twenty-five, Controller's report, thirty-sixth and thirty-seventh fiscal years.]

The Controller further says (page 25):

"In this connection, I desire to repeat the following from my last biennial report:
"It is unnecessary for me to recount the struggles made by the State in earnest endeavors to collect these taxes. It is history that must be fresh in the mind of everyone. Nor is it necessary here to recapitulate the various proposals put forward by these corporations in the way of propositions to evade the payment of their taxes.

"Transactions called compromises have been entered into between these corporations and certain officials, whereby a sum less than that due has been accepted as payment of the taxes levied. But I have refused to accept the payments thus made. I did so because I believed that as an officer of the State I had no right to accept less than the whole amount due the State."

"It has been asserted and insisted by the Attorney-General and the attorneys for these railroad companies that the payments made by them to him were payments on account, but there was nothing in the records of the Court (at the time these partial payments were made) to show that the rights of the State and the several counties to collect the balance due were protected. The records themselves are untrue, and a mere examination of them will show the deception practiced.

"Before the committee of the Assembly of the extra session of 1884, constituted to investigate and report upon the character of the Attorney-General's actions in relation to these railroad tax matters, Mr. Marshall stated that he had a stipulation in the case fully protecting the rights of the State, yet when called upon by the committee to produce it, Mr. Marshall stated that he had such a stipulation, but was unable to find it. The attorney for the railroad stated that no such stipulation existed, but that he would give such an one. Subsequently a piece of paper, purporting to be a stipulation, was presented to the committee by the Attorney-General. This document was worthless, but its worthless character was not discovered by the committee. Some months afterwards, however, this office discovered it and (in a letter addressed to the Attorney-General on November 3, 1885) exposed the deception practiced upon the committee. Yet nothing was done by that official either to correct the record or to secure such a stipulation as would protect the rights of the State. Afterwards John Rooney, Esq., of this county brought an action to compel the Attorney-General to pay, the Controller to certify, and the State Treasurer to receive into the State Treasury, the partial payments the Attorney-General had accepted from the railroad companies. And up to this time no stipulation had been placed on file, and no stipulation is of any value until it is placed on file. But after the Rooney case brought the matter before the Supreme Court of the State, the Attorney-General did file a stipulation in sixty-three cases covering taxes for 1881 and 1882.

"Again, in the cases for railroad taxes for 1884, wherein the Attorney-General accepted 50 per cent of the face of the amount due, the findings of the Court show that the State Board of Equalization assessed the fences along the lines of the roads, and the distance across the bay of San Francisco—a distance of four miles—as four miles of the railroad. The State Board of Equalization did not assess either the fences along the lines of the railroads nor the distance across the bay of San Francisco. No testimony was introduced on the trial to show that such assessments had been made. And yet, in the face of this fact, the Attorney-General permitted this record to be made a part of the findings of the Court. It is a significant fact, in this connection, that the decision rendered against this State by the Supreme Court of the United States in a similar railroad tax case, was based upon the fact that the findings showed that the (former) State Board of Equalization had assessed the fences along the lines of the roads—thus putting these cases in the identical condition of those already decided against the State by the Supreme Court of the United States, and rendering it worse than useless to appeal them. In a letter addressed to the Attorney-General, on the 18th of last June, I called his special attention to the false condition of the record. And during the last two months, I examined the records and found them still in the same condition, as they probably are yet.

"For some time the Attorney-General claimed to have in his possession a large sum of money paid him by certain railroad companies as partial payment of taxes due. In a letter I addressed him on November 3, 1885, and at other times, I asked him to bring an action in the Supreme Court to have the question determined as to my authority to receive these so-called payments on account, but he refused to do so. I also asked from him a statement showing the amount received from each railroad, the year for which it was paid, the amount for State, and the amount for county purposes. This was absolutely essential to me in order that the money might be properly apportioned to the various funds. Yet he refused to furnish me the information.

"The Supreme Court, in the Rooney case, decided that the United States Circuit Court, being a Court of competent jurisdiction, having ordered the Attorney-General to receive the money from the railroad companies, it would not review the decision, and ordered the Controller to certify it into the treasury. But it did not determine either the right of the Attorney-General to compromise taxes or decide the question as to his right to receive taxes on account. Neither did it determine the question as to whether payments made were partial or, under the condition of the records, were in full satisfaction.

"It is scarcely necessary for me to recall to you the earnest efforts made, through your office and mine, to secure a full hearing of the issues involved in the right of the State to tax railroads under the present system. Suffice it to say, every effort of the railroad

attorneys has been exerted to prevent the question being heard on its merits. Your efforts culminating in an exhaustive letter to the Supreme Court of the United States, have been earnest and effective. In that letter, under date of November 25, 1885, you besought the Court to advance those cases upon the calendar, and hear and determine the issues. An early hearing was thereby had; yet your struggles, like those of all others who have earnestly sought to secure a full hearing of the issues involved, were doomed to defeat. In the San Mateo County case nothing was involved but the clean-cut Federal question of the right of the State to tax corporations, under its Constitution.

"With that point decided, nothing remained for decision outside of our State Courts.

"It had been heard in 1882 by the United States Supreme Court, was first of these cases on the calendar, had been argued, and was ready for decision. It was selected as a test case. The railroad company secured a postponement of that decision. They constantly declared their anxiety for an early decision, and just as constantly interposed every possible obstacle against a decision being rendered. They used every endeavor to have that case dismissed, failing in which, they drove the attorneys for the State—Messrs. Rhodes and Barstow—out of the case. As an evidence of the virulent hostility used to thwart the efforts upon the part of State officers to have the case heard, could anything more despicable be presented than the history of that case, as shown in the acts of the officials of San Mateo County, in abetting the railroad company in having that case dismissed, as is seen by the following affidavits: * * *"

Before the moneys were paid into the State Treasury by Attorney-General Marshall, as specified on page 7, there was, on the 10th day of November, 1885, an action commenced in the Supreme Court of the State of California by John Rooney against Attorney-General Marshall and State Controller Dunn (69 Cal. 647) for writ of mandate compelling said Dunn to certify into the State Treasury the moneys collected by said E. C. Marshall from the railroad companies. In order to fully explain the facts in that case, I here insert exhibits A and B, which were offered and received as evidence in said cause, as follows:

STATEMENT,

Being "Exhibit A" in the Supreme Court of California in the case of John Rooney, plaintiff, vs. E. C. Marshall et al., defendants. (9 Cal. 647.)

Number of Case in U. S. Circuit Court.	To Recover Taxes for the Year.	Amount Due on Face of Tax.	Amount Dues at 5 per- cent Pen- alty.	Amount as Interest Until Day of Judgment.	Amount Due as Atto- ney's Fees.	Corporation Defendant.		Amounts of Consent Judgments.	Gross Amounts Due on Day of Judgment.
2755	1880	\$22,519 20	\$11,125 96	\$16,664 20	\$2,251 92	Central Pacific Railroad Company-----		\$14,216 64	\$42,561 28
3093	1882	18,684 36	934 21	4,857 93	1,868 43	Central Pacific Railroad Company-----		18,684 36	26,344 93
2781	1880	14,949 16	747 45	11,062 37	1,494 91	Central Pacific Railroad Company-----		14,949 16	28,253 89
2778	1881	18,443 75	922 18	9,221 87	1,844 37	Central Pacific Railroad Company-----		18,443 75	30,432 17
3060	1882	14,823 00	741 15	3,853 98	1,482 30	Central Pacific Railroad Company-----		14,823 00	20,900 43
3061	1882	2,244 00	112 20	583 44	224 40	Central Pacific Railroad Company-----		2,244 00	3,164 04
2786	1880	5,895 80	294 79	4,362 89	589 58	Central Pacific Railroad Company-----		3,315 80	11,143 06
2788	1881	3,744 63	187 20	1,872 31	374 46	Central Pacific Railroad Company-----		3,744 63	6,178 60
3108	1882	4,085 95	204 29	1,062 34	408 59	Central Pacific Railroad Company-----		4,085 95	5,761 17
2798	1880	3,543 02	177 15	2,621 83	354 30	Central Pacific Railroad Company-----		3,543 02	6,696 30
2797	1881	4,050 00	202 50	2,025 00	405 00	Central Pacific Railroad Company-----		4,050 00	6,682 50
3063	1882	2,625 00	131 25	682 50	262 50	Central Pacific Railroad Company-----		2,625 00	3,701 25
2803	1880	15,608 53	780 42	11,560 31	1,560 85	Central Pacific Railroad Company-----		5,257 61	29,710 51
3071	1882	10,033 65	501 68	2,608 74	1,003 36	Central Pacific Railroad Company-----		3,624 27	14,147 43
2820	1880	22,864 28	1,143 21	16,919 56	2,286 42	Central Pacific Railroad Company-----		22,864 28	43,213 47
2819	1881	28,600 53	1,430 02	14,300 56	2,860 05	Central Pacific Railroad Company-----		28,600 53	47,190 86
2825	1880	6,190 75	309 53	4,581 15	619 07	Central Pacific Railroad Company-----		5,559 17	11,700 50
2914	1881	7,467 90	373 39	3,733 95	746 79	Central Pacific Railroad Company-----		6,732 43	12,322 03
3073	1882	5,078 78	253 93	1,320 48	507 87	Central Pacific Railroad Company-----		4,616 52	7,161 06
2840	1880	32,586 72	1,629 43	24,114 17	3,258 67	Central Pacific Railroad Company-----		14,622 50	61,588 99
2841	1881	39,587 00	1,973 35	19,793 00	3,958 70	Central Pacific Railroad Company-----		18,462 83	65,588 05
3062	1882	44,772 00	2,238 60	11,640 72	4,477 20	Central Pacific Railroad Company-----		16,677 57	63,128 52
2756	1880	4,807 80	240 39	3,557 77	480 78	Southern Pacific Railroad Company-----		4,807 80	9,086 74
3094	1882	3,388 77	169 43	881 08	338 87	Southern Pacific Railroad Company-----		3,388 77	4,778 15
2757	1881	13,394 89	669 74	9,912 21	1,339 48	Southern Pacific Railroad Company-----		8,462 48	25,316 32
2829	1881	16,035 00	801 75	8,017 00	1,603 50	Southern Pacific Railroad Company-----		9,829 67	26,457 25
3064	1882	10,113 12	505 65	2,629 41	1,011 31	Southern Pacific Railroad Company-----		9,631 47	14,259 49
2759	1880	21,444 68	1,072 23	15,869 06	2,144 46	Southern Pacific Railroad Company-----		21,002 68	40,530 43
2787	1881	20,453 40	1,022 67	10,226 70	2,045 34	Southern Pacific Railroad Company-----		19,479 65	33,748 11
3109	1882	12,983 24	649 16	3,375 64	1,298 32	Southern Pacific Railroad Company-----		12,365 01	18,286 36
2809	1880	5,911 58	29 57	437 76	59 15	Southern Pacific Railroad Company-----		591 58	1,118 06
2810	1881	709 50	35 47	354 75	70 95	Southern Pacific Railroad Company-----		709 50	1,170 77
2835	1880	4,159 84	207 90	3,078 28	415 98	Southern Pacific Railroad Company-----		4,159 84	7,862 09
2839	1880	3,763 23	188 16	2,784 79	376 32	Northern Railway Company -----		3,763 23	7,112 50
3096	1881	4,255 39	212 76	2,156 05	425 53	Northern Railway Company -----		4,255 39	7,049 73
3068	1882	2,966 25	148 31	2,771 22	296 62	Northern Railway Company -----		3,424 27	4,182 40

STATEMENT,

Being "Exhibit B" in the case of John Rooney vs. E. C. Marshall et al., in Supreme Court of California. (69 Cal. 647.)
Cases Brought to Recover the Taxes of 1883.

No. of Case in the United States Circuit Court.	Amount of State and County Taxes Sued For.	Amount Due as 5 per cent Penalty Thereon.	Amount due at 2 per cent per Month, under Sec. 3803, P.C.	Amount Due as Attorney's Fees.	Names of Railroads Defendants in the Actions. See 3803, P.C.	Total Amount due Sept. 29, 1884.
3263	\$276,865 10	\$13,843 25	\$57,218 78	\$27,686 51	Central Pacific Railroad Company -	\$375,613 64
3264	209,677 15	10,483 85	43,333 27	20,967 71	Southern Pacific Railroad Company -	284,461 98
3265	28,955 23	1,447 76	5,984 07	2,805 52	Northern Railway Company -	39,282 58
3266	25,967 61	1,298 38	5,366 63	2,596 76	California Pacific Railroad Company -	35,229 38
3267	4,088 71	204 43	844 59	408 87	Stockton and Copperopolis Railroad Company -	5,546 60
3268	10,074 66	503 73	2,082 09	1,007 46	San Pablo and Tulare Railroad Company -	13,667 94
					Total Received by Attorney-General E. C. Marshall	\$753,802 12
						\$333,377 10
						\$420,425 02
<i>Cases Brought to Recover the Taxes of 1884.</i>						
3668	\$339,956 61	\$16,997 83	\$59,379 05	\$32,995 66	Central Pacific Railroad Company -	\$450,329 15
3669	244,550 70	12,227 53	42,714 80	24,455 07	Southern Pacific Railroad Company -	323,948 10
3670	30,680 21	1,534 01	5,358 79	3,068 02	Northern Railway Company -	40,641 03
3671	27,801 70	1,390 08	4,856 01	2,780 17	California Pacific Railroad Company -	36,827 96
3672	10,383 90	519 19	1,813 71	1,038 39	San Pablo and Tulare Railroad Company -	13,755 19
					Total Received by Attorney-General E. C. Marshall	\$865,501 43
						323,520 63
						\$535,980 80

The Supreme Court, in the above mentioned action entitled John Rooney, petitioner, vs. Edward C. Marshall, Attorney-General, and in a similar proceeding brought by the County of San Mateo, petitioner, against D. J. Oullahan, State Treasurer, held and decided as follows: [Opinion by Mr. Justice Ross, concurred in by Chief Justice Morrison, and by Justices Myrick, Sharpstein, McKinstry, and McKee. Filed May 28, 1886; reported in 69 Cal. 647].

"These cases will be considered together. Each is an application for a writ of mandate, directed to the respondents in their official capacity, requiring of them the performance of certain acts demanded of them by the law if the money in question is a part of the public revenue. The money is now in the hands of the Attorney-General of the State, and is \$803,582 93 in amount. Of this sum \$140,685 20 was received by him from the defendants in certain actions instituted by certain counties of the State against certain railroad corporations for the recovery of delinquent taxes for the fiscal years 1880-81, 1881-82, and 1882-83; the remaining \$662,897 73 was received by him from the defendants in certain actions instituted by the State against the same corporations for delinquent taxes for the fiscal years 1883-84 and 1884-85. In the first class of cases the suits were brought under the Act of the Legislature approved April 23, 1880, authorizing any county or city and county, where taxes are delinquent, to sue in its own name for the recovery thereof, 'whether the same be for county, or for city and county, and State purposes, or taxes, or either of them.' (Stats. 1880, p. 136.) In the second class of cases the suits were brought under that provision of the Political Code, as amended in 1883 declaring that 'after the first Monday in February of each year the Controller must bring an action, in the proper Court, in the name of the people of the State of California, to collect the delinquent taxes upon the property assessed by the State Board of Equalization; such suit must be for the taxes due the State, and all the counties, and cities and counties, upon property assessed by the Board of Equalization, and appearing delinquent upon the duplicate record of apportionment of railway assessments. The demands for State and county and city and county taxes may be united in one action.' (Pol. Code, Sec. 3670.)

"Pursuant to statute, the actions embraced within the first class above alluded to—in number sixty-three—were commenced by the District Attorneys of the respective counties in the Superior Court of their respective counties. They were all subsequently transferred to the Circuit Court of the United States, and there came on regularly for trial—the Attorney-General appearing for the plaintiffs—and after trial were submitted to the Court for decision. On the 28th of February, 1884, the Court ordered that judgment be entered in favor of the defendants in the actions, but before judgment was so entered, and on the next day, February 29, 1884, stipulation was presented to the Court in forty-one of said sixty-three cases, signed by the attorney for the defendants, and by the Attorney-General of the State for the plaintiffs, agreeing in effect that, notwithstanding the decision of the Court before announced, that judgment should be entered in favor of the plaintiff in the respective actions for the face of the taxes.

"And the Circuit Court thereupon and upon the oral consent of the attorneys for the respective parties vacated the order theretofore entered for judgment in favor of the defendants, and made and entered a judgment in favor of the respective plaintiffs in said forty-one actions for the face of the taxes; and therein apportioned the amounts of the respective sums between the State and the respective counties. A similar stipulation and judgment was entered in each of the remaining twenty-two cases of the sixty-three originally commenced by the District Attorneys. The amounts of the judgments thus rendered and entered by the Circuit Court of the United States were subsequently paid to the Attorney-General of the State by the defendants in the actions, and a part of which is the aforesaid sum of \$140,685 10.

"Of the actions embraced within the second class already alluded to, there were pending on the 29th of September, 1884, in the Circuit Court of the United States for California, six certain cases prosecuted by the people of the State of California against the railroad corporations for the collection of delinquent taxes for the fiscal year 1883-84. Each of said actions was originally commenced in one of the Superior Courts of the State by attorneys employed for that purpose by the State Controller, but the actions were subsequently transferred, on motion of the defendants therein, to the Circuit Court. And in that Court, on the 29th of September, 1884, the following order was made and entered in each of them:

"Whereas, the defendant in the above-entitled action, while denying all liability upon the cause of action stated in the complaint, pleaded that on the ninth day of November, 1883, it had tendered and offered to pay plaintiff the sum of \$_____, in United States gold coin, in part payment of the tax claimed, with an agreement that the receipt of said sum should not prejudice the plaintiff in any legal rights; and whereas, the defendant in said answer averred that it had brought said sum into Court, and offered the same to plaintiff, and subjected the said sum to such orders or judgments as the Court might make in the premises; and whereas, of the sum so tendered the defendant specially tendered, for the benefit of the State, and on the amount claimed by the State, the sum of \$_____, and on account of the various county taxes it tendered sums as follows, to wit:

"For the county of _____ the sum of \$_____ (naming the several counties and the several amounts).

"Now, upon motion for attorneys for plaintiff, it is ordered by the Court that the defendant, within five days from the date hereof, make said tender good by paying to Edward C. Marshall, Attorney-General of the State of California, and one of the attorneys for plaintiff herein, the said sum of \$_____, United States gold coin (said sum being the amount alleged to have been tendered), to be by the said Marshall, upon the receipt thereof, paid into the State Treasury of the State of California, for the benefit of the State of California and of the counties above named, and in the respective amounts above specified; and it is further ordered that neither the payment nor the receipt of said sum shall prejudice or affect any right of either party to this action to maintain or defend it as to the balance claimed in the complaint."

"The amounts thus ordered to be paid by the Circuit Court amounted to 60 per cent of the face of the taxes, and aggregated \$333,377 10, and were paid to the Attorney-General by the defendants in the actions within the five days mentioned in the order. On or about May 26, 1884, the Controller substituted Mr. D. M. Delmas for the attorneys originally employed by him, who has since been the only attorney employed by the Controller. Mr. Delmas did not consent to the order of September 29th, but on the contrary, at all times resisted it. Subsequently, in each of said six cases, final judgment was entered for the defendants.

"Of the actions embraced within the second class first herein alluded to, there were pending on the 16th of September, 1885, in the Circuit Court, five certain other cases prosecuted as were the six cases last referred to, and in which similar proceedings were had, except that the amount ordered to be paid by the Circuit Court to the Attorney-General by the respective defendants, and which was accordingly so paid, was the sum of \$329,520 63, and was 50 per cent of the face of the taxes.

"The foregoing are substantially the facts as presented by the findings.

"It is quite clear, we think, that unless we can treat the judgments of the Circuit Court in the first class of cases, and the orders of that Court in the second class of cases, directing the payments of the respective sums of money as *void*, we must hold the money paid by virtue of them to the Attorney-General of the State as a part of the public revenue. For in the one instance it was paid under judgments, and in the other instance under orders made and entered by the Court in actions regularly pending in it, and there prosecuted for the recovery of certain sums of money, to a person who appeared and was recognized as, and adjudicated to be, one of the attorneys for the plaintiffs; that is to say, the Attorney-General of the State. The jurisdiction of the Court over the parties and subject-matter is not questioned. Manifestly, therefore, it cannot be held that any judgment or order made by that Court, directing that the plaintiff recover a less sum than that claimed, is void. And not being void, it is conclusive upon us. Nor can we consider the right of the Attorney-General to appear as attorney for the people in the actions commenced by the Controller. The Court in which the cases were heard decided that he had the right so to appear, and recognized him as such attorney, and its judgment in that regard is as binding as in any other. So, too, with respect to the stipulations upon which the judgments in the one class of cases and the orders in the other class were made and entered. It is not for us to say that they were insufficient as a basis upon which to enter the judgments and orders. That was a matter for the Court having jurisdiction of the case, subject to correction on appeal if error was committed.

"We have therefore the case of an attorney who has received certain moneys under judgments and orders recovered by him in actions he was prosecuting. It legally follows, we think, that the money so received is the property of those whom he represented in receiving it.

"Let the writs issue as prayed for in so far as concerns the moneys received by the Attorney-General under the orders made in the cases prosecuted for the delinquent taxes for the fiscal years 1883-84 and 1884-85, and in so far as concerns the moneys by him received for the State under the judgments rendered in the actions prosecuted for the delinquent taxes for the fiscal years 1880-81, 1881-82, and 1882-83."

The taxes for the fiscal years mentioned in the above opinion were due and payable in the years 1880, 1881, 1882, 1883, and 1884, as shown by statements 1, 2, 3, 4, and 5 of Appendix hereof.

The effect of the said decision was that the judgments therein referred to were held not void and that it was the duty of the State Controller to certify said moneys into the State Treasury. They were paid in, as set forth on page 7 hereof.

RECAPITULATION.

There are yet due and unpaid from the Southern Pacific and Central Pacific systems of roads, after giving credit for all sums of money paid in, on account of said taxes, the following sums:

State and county taxes, 1880, 1881, and 1882.....	\$416,252 28
State and county taxes, 1883.....	222,251 33
State and county taxes, 1884.....	323,852 49
Total.....	\$962,356 10

The above total does not include interest or penalties.

If the agreed judgments entered in the United States Circuit Court, in the cases transferred thereto, in reference to these taxes, and the settlement with Attorney-General Marshall are to be considered as binding and conclusive, it is questionable whether the State can ever recover any portion of the above amount of delinquent taxes by reassessment, for it cannot be said that the assessments were so void that the Legislature could of right direct or authorize a reassessment for those years.

I have nothing to add regarding Attorney-General Marshall's conduct in those cases; the statements made by Controller Dunn in his official reports regarding said litigation are a sufficient commentary thereon.

SECOND.

TAXES FOR THE YEARS 1885 TO 1887 INCLUSIVE, NO PART OF WHICH HAS BEEN PAID.

No portion of the taxes of 1885, 1886, and 1887, against the Central Pacific and Southern Pacific systems of roads operated in more than one county, has been paid. For the purpose of comparison I have prepared tabulated statements showing the mileage, assessed value per mile in the respective counties, and the amount of State and county taxes levied against the roads for the years above mentioned as well as for the years subsequent to 1887, which statements are numbered from 6 to 13, inclusive, in the Appendix hereof.

The State Controller, in his report for the thirty-eighth and thirty-ninth fiscal years, page 25, in reference to the taxes previous to and including the year 1887, declared:

"For all these years [from 1880 to 1887, inclusive] the Central and Southern Pacific Railroad Companies, and certain branches controlled by them, have refused, and still refuse, to pay the taxes levied upon them by law, and the very large amounts thus not collected have caused serious disarrangement to the finances of the State, and of the several counties through which they run. The total amount due from these companies, representing the face of the tax from 1883 to 1887, inclusive, aggregates \$2,547,700 61.

"This statement omits the amount due for 1880, 1881, and 1882, as this office has not the data for ascertaining the exact unpaid amounts.

"Actions were brought to recover the delinquent taxes for all these years [1880 to 1887, inclusive] except for 1887. But for this latter year, after advising with the Attorney-General [Geo. A. Johnson], none were begun.

"The history of these railroad tax suits is one presenting deceit, misrepresentation, and false and fraudulent records upon the part of the Central and Southern Pacific Companies. In the cases of 1884 against these companies, the United States Circuit Court findings show that the State Board of Equalization assessed to the railroads the fences along the lines of the roads, and also the distance across the bay of San Francisco, a distance of four miles of the railroads.

"No testimony was introduced on the trial to prove any such assessments. The State Board of Equalization did *not assess* either the fences or the distance across the bay of San Francisco, and yet, in the face of this fact, the then Attorney-General [E. C. Marshall] permitted this record to be made a part of the findings of the Court.

"It is a significant fact, in this connection, that the decision rendered against the State by the Supreme Court of the United States in a similar railroad tax case, was based upon the fact that the findings showed that the (former) State Board of Equalization had assessed the fences along the lines of the roads—thus putting these cases in the identical condition of those already decided against the State by the Supreme Court of the United States, and rendering it worse than useless to appeal them.

"In a letter addressed to the Attorney-General [E. C. Marshall], on the eighteenth day of June, 1886, I called his especial attention to the false condition of the record. This false and fraudulent record was, by him, allowed to remain as part of the record, without any attempt on his part, so far as I am aware, to correct it, even after his attention had been called to it by myself in a public communication.

"This false record was presented to the United States Supreme Court as a true statement of facts in the case. Of course, in view of the Supreme Court's previous decision, there could be but one result to an issue so presented, and the State lost her cases.

"In my last report I predicted this result in the following language: 'The false findings in the United States Circuit Court must be corrected, or the State will lose every cent of the taxes shown to be due. This office is powerless to accomplish it, as the United States Circuit Court recognizes only the Attorney-General as clothed with the right to control the cases. Can it be that a great State vested with all the attributes of inherent power and sovereignty can be thus pillaged of her rights without the possibility of undoing the outrage?'

"It is strange that the great State of California has been debarred by these companies from presenting to the Supreme Court of the United States for adjudication a correct and truthful record of her railroad assessments.

"The present head of the law department of these railroad companies has time after time given out publicly the statement that he was only too anxious to submit these cases on their merits to the Court of last resort; and yet the department over which he presides has resorted to the use of false and fraudulent records to mislead the Court, and prevent the cases from being heard on their merits.

"The effect of this successful legal chicanery makes itself felt severely in the finances of the State and the several interested counties, the total amount due for all the named years being the large sum of \$2,547,700 61. Of this amount there is due to the State the sum of \$946,765 81, of which \$556,615 44 is due to the General Fund; \$316,199 59 to the School Fund; \$69,778 80 to the Interest and Sinking Fund, and \$4,171 98 to the State University Fund.

In the report of ex-Controller Dunn last above referred to it is stated: "Actions were brought to recover the delinquent taxes for all these years, except for the year 1887; but for this latter year, after advising with the Attorney-General, none were commenced."

On the part of both Mr. Dunn and Mr. Johnson, the then Attorney-General, such non-action has proved, in my judgment, to have been a mistake; for if the Controller was correct in his conclusion that Attorney-General Marshall had not presented a case covering the facts, it is very strange that when another Attorney-General was in office the Controller should have deemed it unnecessary to bring new suits, by which the facts could have been presented as he claimed they existed, and a decision had on the merits. I presume, however, that Mr. Dunn had reasons which in his judgment warranted him in pursuing this course. The suits were eventually brought by Attorney-General Johnson, as hereinafter set out.

I am informed that at least 60 per cent of the taxes for 1885 and 1886 would have been paid into the State Treasury by the railroad companies had Mr. Dunn been willing to certify that proportion into the State Treasury *on account of said taxes*, but I understand he refused to do so.

From a perusal of Controller Dunn's reports I would infer and it is fair to presume that during the latter part of 1884 and the years of 1885 and 1886 Mr. Dunn and Mr. Marshall were so much taken up with their controversy over what was correct procedure in the railroad tax matters that the railroad companies were practically undisturbed and were not pushed in due season for the taxes of 1885 and 1886.



No doubt Mr. Dunn believed he was right and that it was for the best interests of the State not to receive partial payments on account of railroad taxes, and his refusal to certify such moneys into the State Treasury was probably based upon the idea that by such refusal the companies would be compelled to pay the full amount, and that to accept less than the full amount would be establishing a precedent permitting the companies to determine for themselves the amount of taxes they would pay without reference to any tax levy by the State. On the other hand, Attorney-General Marshall believed that whatever he received on account of the taxes would be so much gained for the State, and that the stipulations he had obtained warranted him taking such money, the same to be considered as payments on account; but unfortunately Mr. Marshall allowed judgments to be taken against the State, which were not void, and also allowed judgments for stipulated amounts, which of course could not be set aside, whatever the rights of the State may have been, which fully appears in the decision of the Supreme Court in *Rooney vs. Marshall, supra*. In my opinion, Mr. Marshall, as Attorney-General, was overreached in the matter of railroad tax litigation.

TAXES OF 1885.

Suits were brought by the People of the State, *ex rel.* Controller Dunn, against the Central Pacific Railroad and other companies, to recover the taxes of 1885. The cases were transferred to the United States Circuit Court for the Ninth Circuit, District of California, and judgments were rendered therein against the State in all the cases; stipulations were signed by the Attorney-General that four of the cases should abide the result of the decision of the Supreme Court of the United States in the suit of the *People vs. Central Pacific Railroad Company* which was then appealed. This was unfortunate for the State, for the point—assessment of a Federal franchise—involved in the case appealed was not involved in the four cases not appealed. The judgment in the case appealed being affirmed by the Court of last resort, the four cases mentioned were also affirmed by reason of said stipulation. Judgment was thus rendered against the People in all the tax suits for that year (1885); but when it was discovered that the decision of the United States Supreme Court in *People vs. Central Pacific Railroad* turned upon the question of the assessment by the State of a Federal franchise, it was agreed by Attorney-General Johnson and the attorneys for the railroad companies that the judgment entered in the case of the *People vs. San Pablo and Tulare Railroad Company*, one of the four cases, should be set aside and new findings drawn, presenting the question whether the Constitution of this State conflicts in any particular with the provisions of the Fourteenth Amendment of the Constitution of the United States, in reference to the taxation of railroads operated in more than one county. Such findings were submitted and judgment was entered thereon against the People, by Circuit Judge Sawyer; whereupon Attorney-General Johnson sued out a writ of error in said action to the Supreme Court of the United States, which action is still pending before that Court. The railroad company here consented to set aside a judgment in its favor in the San Pablo case in

order to present a case which would presumably test, in the United States Supreme Court, the constitutionality of our mode of taxation of railroads.

TAXES OF 1886.

In the meantime Attorney-General Johnson brought actions in the name of the People against the Southern and Central Pacific Railroads, and other companies, in the Superior Court of the City and County of San Francisco, for the taxes of 1886. The defendants were served; they appeared, and filed demurrers on various grounds, raising technical and constitutional objections. After argument, Judge Levy, before whom the cases were heard, sustained the demurrers, and the Attorney-General, instead of amending the complaints to cure the objections made by the demurrers, stood on the demurrers, and appealed to the Supreme Court of the State of California, where the cases were heard and determined. Decision was rendered by Mr. Justice Fox, and is reported in 83 Cal. 393. The State Supreme Court sustained the lower Court, holding that the form of complaint used was not good; that the statute allowing such a form of complaint was unconstitutional and was a special enactment prescribing a special mode of practice. This decision was rendered a few days preceding the time that the case of *People vs. San Pablo and Tulare Railroad Company* was reached for hearing by the United States Supreme Court, and upon a telegraphic communication of that decision to Washington, D. C., the latter Court declined to hear the case because of our Supreme Court refusing to sustain the action upon the form of complaint adopted for the recovery of the taxes of 1886. The people of this State were thereby prevented from obtaining a decision of the Supreme Court of the United States upon the question of conflict of our Constitution with the Federal Constitution in the provisions of the former regarding the mode of taxation of railroads operated in more than one county. Thus by either unforeseen or prearranged circumstances, the people of this State have not for a period of twelve years had the opportunity of presenting to the Supreme Court of the United States the merits of our Constitution in reference to the taxation of railroads operated in more than one county; and as matter of fact the Supreme Court of the United States, in pursuance of an invariable rule not to consider Federal constitutional questions where the State Supreme Court had virtually disposed of the matters involved upon statutory construction, still refuse to take up or pass upon the case of the *People vs. San Pablo and Tulare Railroad Company*, pending on writ of error in that Court, because of the decision of our Supreme Court in the case reported in 83 Cal., p. 393, affirming Judge Levy's decision as to the informality of the complaints filed to recover the taxes of 1886.

TAXES OF 1887.

Some two weeks before assuming my official duties I investigated the form of complaint which had been passed upon by the Supreme Court of this State in the case of *The People vs. C. P. R. R. Co.*, 83 Cal. 393. I found that the suits brought by my predecessor for taxes of 1887 were upon complaints similar in form to those adversely passed upon in the case cited, and I determined that a new form of complaint

should be adopted, in order that a decision of the Supreme Court of this State might be had upon the constitutional provisions of this State in reference to the assessment of railroads operated in more than one county, without being hampered by technicalities as to the form of the pleading. Accordingly, three days before taking office, I had new amended complaints filed by the associate counsel, for the taxes of 1887. These cases were briefed and submitted to the Hon. J. P. Hoge, one of the Superior Judges of the City and County of San Francisco, but he died before passing upon the demurrers interposed by defendants. His successor, Judge Hebbard, heard argument upon the demurrers, and, after due consideration, overruled them.

The trial of the suits for these taxes was commenced before Judge Hebbard of the Superior Court of the City and County of San Francisco, on the 9th day of January 1893, and will be taken up for argument before the Court on the 19th instant.

The Central Pacific Railroad Company and the Southern Pacific Railroad Company defend the actions on the ground that the Federal franchise was included in the assessment for the taxes of 1887; the defense in the suits brought against the other roads, four in number, being that the provisions of the State Constitution regarding the taxation of railroads operated in more than one county are null and void, for the reason that there is no provision for the deduction of mortgages upon said roads.

From my examination of these questions I am certain that the provisions of our Constitution upon the subject of railroad taxation are not in violation of the Federal Constitution; and on this point, for your convenience I refer to and quote from the following decisions:

In the *Kentucky Railroad Tax Cases*, 115 U. S. 337, the authority of the Legislature to classify property for the purpose of taxation is sustained; and it is said that:

"The rule of equality in respect to the subject only requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances."

It is true that the Kentucky statute places all railroads in one class, distinct from the property of other corporations, for the purpose of taxation, but the right to classify property for that purpose is sanctioned by that decision, and the decision places no restriction on the discretion of the Legislature, as to the basis upon which different classes may be constituted.

It is stated in the opinion, page 337, that there is nothing in the Constitution of Kentucky that requires taxes to be levied by a uniform method upon all descriptions of property. Neither is there anything in the Constitution of California requiring uniformity of method in levying taxes.

In that opinion it is further stated that "the whole matter is left to the discretion of the legislative power, and there is nothing to forbid the classification of property for the purposes of taxation and the valuation of different classes by different methods."

The same can be said of the Constitution of this State; and when the Constitution itself has made railroads operated in more than one county a class for one purpose—for the purpose of assessment—there is nothing unreasonable in the Legislature adopting that classification in the further proceedings connected with the levying and collection of taxes.

The authority to enact laws applicable to a class is sustained in *Abeel et al. vs. Clark*, 84 Cal. 226, where the law was upheld as being constitutional, which provided for the vaccination of children attending the public schools, and for the exclusion therefrom of unvaccinated children. It is said in the opinion, page 213, that, "An act to be general in its scope need not include all classes of individuals in the State; it answers the constitutional requirement if it relates to and operates uniformly upon the whole of any single class."

In *Pullman's Car Company vs. Pennsylvania*, 141 U. S. 18, the Court said:

"In the *State Railroad Tax Cases*, 92 U. S. 575, it was adjudged that a statute of Illinois, by which a tax on the entire taxable property of a railroad corporation, including its rolling stock, capital, and franchise, was assessed by the State Board of Equalization, and was collected in each municipality in proportion to the length of the road within it, was lawful, and not in conflict with the Constitution of the State, and Mr. Justice Miller, delivering judgment, said:

"Another objection to the system of taxation by the State is, that the rolling stock, capital stock, and franchise are personal property, and that this, with all other personal property, has a local *situs* at the principal place of business of the corporation, and can be taxed by no other county, city, or town but the one where it is so situated. This objection is, based upon the general rule of law that personal property, as to its *situs*, follows the domicile of its owner. It may be doubted, very reasonably, whether such a rule can be applied to a railroad corporation as between the different localities embraced by its line of road. But, after all, the rule is merely the law of the State which recognizes it; and when it is called into operation as to property located in one State and owned by a resident of another, it is a rule of comity in the former State rather than an absolute principle in all cases. (*Green vs. Von Buskirk*, 5 Wall. 312.) Like all other laws of a State it is therefore subject to legislative repeal, modification, or limitation; and when the Legislature of Illinois declared that it should not prevail in assessing personal property of railroad companies for taxation, it simply exercised an ordinary function of legislation. (92 U. S. 607, 608.)"

"It is further objected that the railroad track, capital stock, and franchise is not assessed in each county where it lies, according to its value there, but according to an aggregate value of the whole, on which each county, city, and town collects taxes according to the length of the track within its limits. It may well be doubted whether any better mode of determining the value of that portion of the track within any one county has been devised, than to ascertain the value of the whole road, and apportion the value (not the property) 'within the county by its relative length to the whole. This Court has expressly held in two cases, where the road of a corporation ran through different States, that a tax upon the income or franchise of the road was properly apportioned by taking the whole income, or value of the franchise, and the length of the road within each State, as the basis of taxation.' (*Delaware Railroad Tax*, 18 Wall. 206; *Erie Railroad vs. Pennsylvania*, 21 Wall. 492; 92 U. S. 608, 611.)"

In the case of *Pacific Express Co. vs. Seibert, State Auditor, et al.*, decided by the United States Supreme Court, January 4, 1892, and reported in Vol. 142 of U. S. Reports, page 339, said doctrine is again affirmed and laid down. At page 253, the Court say:

"This Court has repeatedly laid down the doctrine that diversity of taxation, both with respect to the amount imposed and the various species of property selected, either for bearing its burdens or for being exempt from them, is not inconsistent with a perfect uniformity and equality of taxation in the proper sense of those terms. * * *

"The rules of taxation, in this respect, were well stated in the opinion of the Court, delivered by Mr. Justice Bradley, *Railroad Company vs. Pennsylvania*, 134 U. S. 232, 237, 10 Sup. Ct. Rep. 533, as follows:

"The provision in the fourteenth amendment, that no State shall deny to any person within its jurisdiction the equal protection of the laws, was not intended to prevent a State from adjusting its system of taxation in all proper and reasonable ways. It may, if it chooses, exempt certain classes of property from any taxation at all, such as churches, libraries, and the property of charitable institutions. It may impose different specific taxes upon different trades and professions, and may vary the rates of excise upon various products. It may tax real estate and personal property in a different manner. It may tax visible property only, and not tax securities for payment of money. It may allow deductions for indebtedness, or not allow them. * * * It would, however, be impracticable and unwise to attempt to lay down any general rule or definition on the subject that would include all cases. They must be decided as they arise. We think that we are safe in saying that the fourteenth amendment was not intended to compel the State to adopt an iron rule of equal taxation. If that were its

proper construction, it would not only supersede all those constitutional provisions and laws of some of the States whose object is to secure equality of taxation, and which are usually accompanied with qualifications deemed material, but it would render nugatory those discriminations which the best interests of society require, which are necessary for the encouragement of needed and useful industries and the discouragement of intemperance and vice, and which every State, in one form or another, deems it expedient to adopt.'

"In the case of *Insurance Company vs. New York*, 134 U. S., 594, 606, 607, 10 Sup. Ct. Rep. 593, the Court, speaking through Mr. Justice Field, said: 'But the amendment (the fourteenth) does not prevent the classification of property for taxation—subjecting one kind of property to one rate of taxation, and another kind of property to a different rate—distinguishing between franchises, licenses, and privileges, and visible and tangible property, and between real and personal property. Nor does the amendment prohibit special legislation. Indeed, the greater part of all legislation is special, either in the extent to which it operates, or the objects sought to be obtained by it; and when such legislation applies to artificial bodies, it is not open to objection if all such bodies are treated alike, under similar circumstances and conditions, in respect to the privileges conferred upon them and the liabilities to which they are subjected. Under the statute of New York, all corporations, joint-stock companies, and associations of the same kind are subjected to the same tax. There is the same rule applicable to all, under the same conditions, in determining the rate of taxation. There is no discrimination in favor of one against another of the same class.' Citing a long list of authorities."

The face of total taxes due and unpaid for the years 1885, 1886, and 1887, by the Central and Southern Pacific systems is as follows:

1885		\$715,363	93
1886		648,957	05
1887		647,439	20
Total		\$2,011,760	18

Difference between this amount and that mentioned in Controller's report for forty-second and forty-third fiscal years, page 29, is made up as follows, viz.: Taxes of North Pacific Coast Railroad for 1885, \$5,339 38; for 1886, \$15,602 17; making in all \$20,941 51 improperly included or charged to the Southern Pacific system of railroads.

THIRD.

TAXES FROM 1888 TO 1892, INCLUSIVE; PAID IN FULL.

Since 1887 the railroad companies have not claimed that the Federal franchise has been assessed, and, by reason of the foregoing authorities, they have also practically abandoned the defense of conflict of the State Constitution with the fourteenth amendment to the Federal Constitution, in reference to the assessment of railroads operated in more than one county and in reference to the deduction of railroad mortgages, as fully shown from the fact that the companies have promptly and fully paid all taxes levied since 1887.

In view of the decisions above cited and the offer of the Railroads, through their attorney, Mr. Craig, to pay in full all taxes, penalties, interest, and costs in the case of *People vs. San Pablo and Tulare Railroad Company*, now pending in the United States Supreme Court, I think that litigation in this State arising out of the levy of taxes upon railroads is practically ended, except as to the taxes remaining unpaid. If an adjustment of these taxes can be made, the people will no longer be burdened with litigation in reference to taxation of railroad companies.

CONCLUDING OBSERVATIONS.

The companies insist that previous to 1887 the Federal franchises were included in the assessment, and hence invalidated all assessments made by the State Board of Equalization. This, however, can apply only to the "Central Pacific Railroad Company" and "Southern Pacific Railroad Company" roads proper, for they are the only railroad corporations in California which ever had or claimed a Federal franchise. None of the branches or roads of other corporations operated by these companies in this State ever had a Federal franchise; no defense of that character was ever made to any of the suits brought for taxes levied upon said branch roads. It may therefore be considered strange that my predecessors should have permitted the question of the taxation of a Federal franchise to interfere with the suits brought against the branch roads of the Southern Pacific and Central Pacific systems.

The companies also contend that previous to 1887 they were assessed at too great a value per mile for the number of miles of road within the State. Therefore, I have prepared a table showing the total assessed value of all property in the State for each year from 1880 to 1892, inclusive; also the total assessed value of the railroad companies for those years and the proportion of the valuation of railroads as compared with the assessed value of all the property in the State, together with the State rate of taxes, viz.:

STATEMENT

Showing the total assessed value of all property assessed in the State, and what portion thereof was assessed to railroads and the percentage of the railroad assessments as compared with the whole.

Year.	State Rate of Taxation.	Total Assessed Value of all Property in the State.	Total Assessed Value of all Railroads in the State.	Percentage of Railroad Assessments.
1880	.64	\$666,202,674 00	\$31,174,120 00	4.68
1881	.655	658,691,059 00	34,829,668 00	5.29
1882	.596	607,472,762 00	27,602,313 00	4.54
1883	.497	764,763,559 00	40,017,000 00	5.23
1884	.452	821,604,703 00	50,746,500 00	6.1
1885	.544	859,779,423 00	49,035,750 00	5.7
1886	.56	817,445,729 00	48,051,100 00	5.8
1887	.608	956,740,805 00	47,673,453 00	4.9
1888	.504	1,107,952,700 00	43,242,652 00	3.90
1889	.722	1,111,550,979 00	40,488,652 00	3.64
1890	.58	1,101,137,290 00	40,198,652 00	3.64
1891	.446	1,239,647,063 00	41,414,000 00	3.34
1892	.434	1,275,816,228 00	41,976,000 00	3.29

[NOTE.—See Controller's Report for 1888, pages 21 to 27. The above includes all railroads then in the State other than street car lines.]

The statement following shows the total taxes of the Central Pacific and Southern Pacific systems of railroad from 1880 to 1892, including county taxes, except for the years 1880, 1881, and 1882:

Year.	State Tax.	County Tax.	Total.
1880	\$181,364 90	*	
1881	212,413 34	*	
1882	151,871 53	*	
1883	176,435 00	\$375,104 75	\$551,539 75
1884	209,050 00	444,323 12	653,373 12
1885	240,448 00	474,915 93	715,363 93
1886	238,560 00	410,397 05	648,957 05
1887	253,232 00	394,207 20	647,439 20
1888	174,510 00	302,116 90	476,626 90
1889	245,480 00	314,876 21	560,356 21
1890	194,300 00	313,918 07	508,218 07
1891	151,640 00	342,793 66	494,433 66
1892	147,047 88	326,651 52	473,699 40
Totals	\$2,576,352 65	\$3,696,304 41	\$6,272,657 06

* Unable to give; no records in office of Controller or State Board of Equalization on this subject. The county taxes levied upon said roads for these three years are estimated to aggregate \$1,147,700. A portion of such taxes were paid under settlements and compromises made with Boards of Supervisors of various counties, as set forth on page 5 hereof. I have, however, in this report stated the correct amount of both State and county taxes remaining unpaid for each year.

The following tables show the years the roads were assessed, the mileage operated, amount of assessed value per mile, total assessment, total tax of each railroad separately, and State rate of taxation:

California Pacific Railroad.

Year.	Miles Operated.	Amount Assessed per Mile.	Total Assessment.	Total Taxes.	State Rate of Taxation on each \$100.	Remarks.
1880	112.50		\$1,801,300		.64	
1881	112.50		1,856,250		.65½	
1882	112.50		1,462,500		.596	
1883	112.50	\$29,889 40	1,800,000	\$25,967 61	.497	
1884	112.50	24,000 00	2,000,000	27,801 70	.452	
1885	112.50	17,777 77	2,000,000	28,859 21	.544	
1886	112.50	17,777 77	2,000,000	28,985 57	.56	
1887	112.50	22,222 22	2,500,000	37,015 45	.608	
1888	112.50	22,222 22	2,500,000	33,623 22	.504	
1889	112.50	22,222 22	2,500,000	38,994 14	.722	
1890	112.50	22,222 22	2,500,000	35,037 24	.58	
1891	112.50	22,222 22	2,500,000	31,791 52	.446	
1892	112.50	17,777 77	2,000,000	23,795 92	.434	First installm't paid.

Central Pacific Railroad.

Year.	Miles Operated.	Amount Assessed per Mile.	Total Assessment.	Total Taxes.	State Rate of Taxation on each \$100.	
1880			\$12,239,456		.64	
1881			15,055,500		.65 $\frac{1}{2}$	
1882			13,010,520		.596	
1883	602.22	\$29,889 40	18,000,000	\$276,865 10	.497	
1884	626.22	38,312 95	24,000,000	339,956 61	.452	
1885	640.68	34,338 51	22,000,000	375,013 61	.544	
1886	640.68	31,216 83	20,000,000	315,048 04	.56	
1887	719.15	25,017 37	18,000,000	295,740 71	.608	
1888	747.14	20,076 55	15,000,000	218,312 76	.504	
1889	746.76	17,408 53	13,000,000	222,401 35	.722	
1890	746.76	17,408 53	13,000,000	205,421 43	.58	
1891	746.76	17,408 53	13,000,000	193,584 88	.446	
1892	746.76	17,408 53	13,000,000	191,410 32	.434	First installm't paid.

Northern Railway.

Year.			\$1,492,758		.64	
1880			1,543,050		.65 $\frac{1}{2}$	
1881			1,143,000		.596	
1882						
1883	148.40	\$13,477 08	2,000,000	\$28,955 23	.497	
1884	148.40	15,498 65	2,300,000	30,680 21	.452	
1885	148.40	15,498 65	2,300,000	31,499 95	.544	
1886	148.40	18,194 07	2,700,000	37,211 95	.56	
1887	148.40	20,215 63	3,000,000	41,483 45	.608	
1888	148.40	14,993 26	2,225,000	27,640 09	.504	
1889	385.25	9,085 00	3,500,000	54,080 56	.722	
1890	385.25	7,789 15	3,000,000	41,278 71	.58	
1891	385.25	7,787 15	3,000,000	39,918 46	.446	
1892	385.25	8,000 00	3,082,000	40,037 74	.434	First installm't paid.

San Pablo and Tulare Railroad.

Year.			\$492,800		.64	
1880	46.00		552,000		.65 $\frac{1}{2}$	
1881	46.00		460,000		.596	
1882	46.00					
1883	46.00	\$15,217 39	700,000	\$10,074 76	.497	
1884	46.00	20,652 17	950,000	10,333 90	.452	
1885	46.00	19,565 21	900,000	10,702 17	.544	
1886	46.00	19,564 21	900,000	11,187 38	.56	
1887	46.00	19,565 21	900,000	11,886 85	.608	
1888	46.00	19,565 21	900,000	10,294 23	.504	
1889*						

*Absorbed by Southern Pacific.

Southern Pacific Railroad.

Year.			\$10,483,518		.64	
1880			11,739,915		.65 $\frac{1}{2}$	
1881			8,226,135		.596	
1882						
1883	870.74	\$14,929 82	13,000,000	\$209,677 15	.497	
1884	957.02	17,763 47	17,000,000	244,550 70	.452	
1885	957.02	17,763 47	17,000,000	269,289 13	.544	
1886	957.02	17,763 47	17,000,000	256,524 11	.56	
1887	1,022.33	16,139 60	16,500,000	251,134 26	.608	
1888	1,022.35	13,694 20	14,000,000	186,756 60	.504	
1889	1,493.77	10,041 70	15,000,000	244,880 16	.722	
1890	1,522.50	9,852 21	15,000,000	226,480 69	.58	
1891	1,654.87	9,366 29	15,500,000	229,138 80	.446	
1892	1,701.40	9,286 47	15,800,000	218,455 42	.434	First installm't paid.

South Pacific Coast Railroad.

Year.	Miles Operated.	Amount Assessed per Mile.	Total Assessment.	Total Taxes.	State Rate of Taxation on each \$100.	
1887	45.30	\$16,556 29	\$750,000	\$10,178 48	.608	----- Not paid.

SUMMARY.

I.

The total amount of State and county taxes due from the Southern Pacific and Central Pacific railroad systems on account of the face of the taxes remaining unpaid is as follows:

State and county taxes for 1880, 1881, and 1882	\$416,252 28
State and county taxes for 1883	222,251 33
State and county taxes for 1884	323,852 49
State and county taxes for 1885	715,363 93
State and county taxes for 1886	648,957 05
State and county taxes for 1887	647,439 20

Total ----- \$2,974,116 28

Which does not include interest, penalties, or costs.

Of the above total, \$962,356 10 is the sum remaining unpaid for taxes for the years 1880 to 1884, inclusive, after acceptance of the compromise money covering those taxes by Attorney-General Marshall. As to whether this sum is beyond recovery by a reassessment is hereinbefore fully discussed. If an Act is passed authorizing a final and legal settlement the companies would probably pay 30 per cent of the above amount, which would make in the aggregate 67 per cent of the whole amount levied for those years.

The balance is \$2,011,760 18, being face of total taxes for the years 1885, 1886, and 1887, no part of which has been paid.

II.

There are three feasible ways, in my judgment, in which to dispose of these questions: 1. The Legislature can pass an Act authorizing the Attorney-General to accept not less than a certain sum in satisfaction of all claims the State may have for delinquent taxes. 2. The Legislature can pass an Act declaring the exact amount to be accepted in full satisfaction for all back taxes. 3. By a reassessment bill providing for the reassessment of railroads for the years of their default, 1880 to 1887, inclusive.

In the event of the enactment of a reassessment statute, it should not apply to those years solely, for such an Act would, in my opinion, be unconstitutional, in view of the ruling laid down by the Supreme Court in *Bourn vs. Hart et al.*, 93 Cal. 321; and see, also, *ex parte Westerfeld*, 55 Cal. 550; Subdivisions 10 and 33 of Section 25, Article IV, State Constitution. Such Act should be general in terms, applying to all property that has escaped taxation by reason of the irregularities or defects mentioned in the bill, since the adoption of the new Constitution, and should apply to the future as well as the past. Provision ought

also to be made whereby the companies would be credited with all sums paid on account of such delinquent taxes, and a day should be fixed in the bill on which such reassessment is to be made, and should provide for the issuing and serving of due notice to persons and corporations to be reassessed, and requiring from them a statement of property for the years for which the reassessment is to be made, also fixing penalties for failure to furnish such statements. In other words, a reassessment bill should be as complete as to reassessments as the Political Code is now in its provisions for assessing property. Such statute should be made a part of said Code, in order that the law and all proceedings thereunder should be liberally construed. If the reassessment law is in the shape of a separate statute, it must be strictly construed; the rule of liberal construction applies only to the Codes. It should provide also for penalties, interest, and costs, without reference to any other statute. That is to say, the Act should be complete in itself for the carrying out of the objects intended; and it should be thereby enacted that the judgment of any Court declaring an assessment invalid will be sufficient jurisdictional ground for the reassessment. The bill also should designate the Board or officer making the assessment.

Many serious questions may arise in regard to such reassessment; among which I will specify: In making the reassessment, should the rate of taxation be the same as fixed for the year in which such reassessment is made, or should it be the rate for the respective years in which the assessments have been held invalid? The latter rate would yield a much larger sum than the former. Is there any mode, through reassessment, whereby the people may recover from these corporations the interest upon the taxes from the time they should have been paid, if properly assessed originally, up to the time of payment? What notice should be given and what statements required? Will a reassessment bill give to the people as much money as an Act of the Legislature authorizing a settlement of these taxes?

As before stated, the railroad companies have offered to pay \$1,207,-056, being 60 per cent of the taxes of 1885, 1886, and 1887.

My opinion is that the taxes for 1887 can be collected in full, in the actions before the Superior Court of San Francisco, Department 4, wherein the trials of the suits to recover the same are in progress.

If the Legislature will authorize the receipt of the above or greater sum in settlement, with 7 per cent interest from the day the taxes became delinquent, the companies will doubtless accept the proposition. Such a settlement could be effected within a short period, whereas if reassessment is alone relied on there is no assurance that the companies will pay; they may continue the litigation for years, as they have previously done, and the people be further balked and delayed in the receipt of these State and county revenues justly collectible and unreasonably in default.

In view of the fact that the State has already been defeated in all the suits for the taxes of 1885 and 1886, excepting the San Pablo and Tulare case in the United States Supreme Court, and the further fact that the railroad companies have paid taxes in full since 1887, and that there is now no doubt as to the validity of our Constitution concerning the taxation of railroads operated in more than one county, and considering that it is possible to end pending litigation in reference thereto, would it not be better for the people at this time to obtain a reasonable settle-

ment, thereby putting money into the State and county treasuries for immediate public use, than to wait perhaps many months to effect any result by means of a reassessment of the roads and litigation thereunder? I think that the following is the best course to pursue in the settlement of this vexatious question:

1. That a joint committee of Senate and Assembly be appointed, to which committee all bills upon the subject should be referred. That the committee examine the subject-matter involved, and report to both houses the result of the committee's consideration, which should include whether the State can obtain more of these delinquent tax moneys by settlement than by reassessment.

2. That two bills ought to be passed, one authorizing the Attorney-General to accept not less than a certain sum, to be fixed by the Legislature, for a release by the State of all claims for these taxes, and also a perfect bill providing for a reassessment, so that in the event a settlement is not obtainable a valid reassessment may be made.

From a perusal of the statements and tables appearing herein the members of the Legislature should be enabled to determine whether or not the companies have any moral or equitable grounds for objection to the assessments made for the years 1885, 1886, and 1887. It must be remembered, however, that the roads are of but little greater value now than at the time the assessments were made, while other property in the State has largely increased in value since 1887; it follows that taxes on railroads are relatively less now than they were in those years.

Respectfully, your obedient servant,

WM. H. H. HART,
Attorney-General.

APPENDIX.

STATEMENT No. 1.

Showing the Assessed Value of each railroad of the Central Pacific System, and the Tax Levied for State purposes against each road, for the year 1880.

Names of Railroads.	Total Assessment.	Amount of Tax for State Purposes.
California Pacific -----	\$1,801,300 00	\$11,528 32
Central Pacific -----	12,239,456 00	78,332 52
Northern Railway -----	1,492,758 00	9,553 65
Sacramento and Placerville -----	539,098 00	3,450 23
San Pablo and Tulare -----	492,800 00	3,153 92
Southern Pacific -----	10,483,518 00	67,094 52
Stockton and Copperopolis -----	597,632 00	3,824 84
Vaca Valley and Clear Lake -----	249,725 00	1,598 24
Totals -----	\$27,896,287 00	\$178,536 24

STATEMENT No. 2.

Showing the Assessment of the Railroads under the Central Pacific System, for the year 1881, giving the Counties through which the Roads Run.

	Value of Property Delinquent for Taxes.	Amount of Delinquent Tax for State Purposes.
California Pacific ----- Napa, Sacramento, and Yolo:	\$1,856,250 00	\$12,158 44
Central Pacific ----- Alameda, Butte, Fresno, Merced, Nevada, Placer, Sacramento, San Francisco, San Joaquin, Santa Clara, Shasta, Sierra, Stanislaus, Sutter, Tehama, Tulare, and Yuba.	15,055,500 00	98,613 53
Northern Railway ----- Alameda, Colusa, Contra Costa, Solano, Tehama, and Yolo.	1,543,050 00	10,106 98
San Pablo and Tulare ----- Alameda, Contra Costa, and San Joaquin.	552,000 00	3,615 60
Southern Pacific ----- Fresno, Kern, Los Angeles, Monterey, San Benito, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Tulare.	11,739,915 00	76,896 44
	\$30,746,715 00	\$201,390 99

NOTE.—Amount of delinquent tax for county purposes not obtainable.

STATEMENT No. 3.

Showing the Assessed Value of each Railroad of the Central Pacific System, and the Tax Levied for State purposes against each road, for the year 1882.

Names of Railroads.	Total Assessment.	Amount of Tax for State Purposes.
California Pacific	\$1,462,500 00	\$8,716 50
Central Pacific	13,010,520 00	77,542 70
Northern Railway	1,143,000 00	6,812 28
Sacramento and Placerville	291,048 00	1,734 65
San Pablo and Tulare	460,000 00	2,741 60
Southern Pacific	8,226,135 00	49,027 74
Stockton and Copperopolis	379,355 00	2,260 95
Vaca Valley and Clear Lake	246,925 00	1,471 67
Totals	\$25,219,483 00	\$150,308 09

NOTE. —Amount of delinquent tax for county purposes not obtainable.

STATEMENT No. 4—TAXES OF 1883.

Showing Mileage in State and in Each County; Assessed Value per Mile and in Gross in State and Each County; Amount of State and County Taxes respectively; Amount and by whom collected and Paid into State and County Treasury.

Names of Railroads, and of Counties Through Which They Run.	Number of Miles of each Railroad Operated in the State.	Number of Miles of each Railroad in each County.	Assessed Value per Mile.	Value of Property Delinquent for Taxes.	Amount Delinquent in each County.	Amount of Delinquent Tax for State purposes.	Amount of Delinquent Tax for County purposes.	Total delinquent tax on Assessments made by the State Board of Equalization.
California Pacific Railroad -	112.50	41.00	\$16,000 00	\$1,800,000 00	\$636,000 00	\$8,946 00	\$6,430 19	-
Napa -		.50			8,000 00		52 24	
Sacramento -		40.00			640,000 00		6,867 20	
Solano -		31.00			496,000 00		3,671 98	
Yolo -								\$25,967 61
Central Pacific Railroad -	602.22	29,889 40	18,000,000 00		\$2,496,363 00	89,460 00	17,108 11	-
Alameda -		83.52			1,345,023 00		13,490 58	
Butte -		45.00			1,825,047 00		28,780 36	
Fresno -		61.06			1,098,436 00		11,017 31	
Mered -		36.75			904,155 00		14,483 60	
Nevada -		30.25			3,370,031 00		35,486 42	
Placer -		112.75			1,225,466 00		9,728 42	
Sacramento -		41.00			119,558 00		1,434 69	
San Francisco -		4.00			1,696,224 00		8,532 00	
San Joaquin -		56.75			254,060 00		2,295 89	
Santa Clara -		8.50			561,921 00		15,469 68	
Shasta -		18.80			64,262 00		1,479 95	
Sierra -		2.15			676,397 00		3,402 27	
Stanislaus -		22.63			298,894 00		2,997 90	
Sutter -		10.00			1,211,717 00		12,759 38	
Tehama -		40.54			378,101 00		4,359 50	
Tulare -		12.65			474,345 00		9,569 04	
Yuba -		15.87						276,865 10
Northern Railway -	148.40	13,477 08	2,000,000 00		\$92,318 00	9,940 00		
Alameda -		6.85						567 12
Colusa -		62.81						8,067 10
Contra Costa -		23.75						3,370 45
Solano -		16.95						2,451 12
								228,437 00

Tehama	17.29		233,049.00	2,453.69
Yolo	20.75		279,649.00	2,105.75
San Pablo and Tulare Railroad	46.00	15,217.39	700,000.00	
Alameda	1.40		21,304.00	160.41
Contra Costa	36.10		549,348.00	5,784.63
San Joaquin	8.50		129,348.00	650.62
Southern Pacific Railroad	870.74	14,929.82	13,000.00	10,074.66
Fresno	17.93		267,692.00	3,488.02
Kern	153.47		2,291,281.00	26,418.46
Los Angeles	142.48		2,127,202.00	19,016.03
Monterey	49.28		735,742.00	8,115.23
San Benito	17.65		263,511.00	3,170.03
San Bernardino	175.19		2,615,537.00	27,803.37
San Diego	158.85		2,371,603.00	32,158.93
San Francisco	7.36		103,884.00	1,318.60
San Mateo	25.10		374,739.00	4,320.74
Santa Clara	59.30		885,339.00	8,170.21
Santa Cruz	2.15		32,069.00	418.24
Tulare	61.98		925,351.00	10,669.29
Totals	1,779.86	1,779.86	\$35,500,000.00	\$176,435.00
			\$35,500,000.00	\$375,104.75
				\$551,539.75

STATEMENT No. 5—TAXES OF 1884.

Showing Mileage in State and in each County; Assessed Value Per Mile and in Gross in State and in each County; Amount of State and County Taxes respectively; Amount and by whom Collected and Paid into State and County Treasury, and the Amounts Remaining Unpaid.

Names of Railroad and of Counties Through Which They Run.	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value Per Mile.	Value of Property Delinquent for Taxes.	Amount Delinquent in Each County.	Amount of Tax Levied for State Purposes.	Amount of Tax Levied for County Purposes.	Amount of Tax for State Pur- poses Received from E. C. Marshall, Atty-Gen.	Amount of Tax for County Pur- poses Received from E. C. Marshall, Atty-Gen.	Amount of Tax for State Pur- poses Received from E. C. Marshall, Atty-Gen.	Balance Due of Tax Levied for County Purposes.
Cal. Pacific R. R.—	112.50	41.00	\$24,000 00	\$2,000,000		\$9,040	\$9,204 89	\$4,610 40	\$4,740 40	\$4,429 60	\$4,554 40
Napa		.50					53 15		20 31		32 84
Sacramento		40.00					5,613 20		2,862 74		2,750 46
Solano		31.00					3,800 46		1,938 24		1,862 22
Yolo	626.42	83.52	38,312 95	24,000,000	108,480	19,002 82		52,833 60		55,646 40	
Central Pacific R. R.		45.00				17,145 05					
Alameda		61.06				19,838 01					
Butte		36.75				11,939 84					
Fresno		30.25				22,576 67					
Mered		112.75				38,791 66					
Nevada		41.00				11,606 14					
Placer		4.00				1,724 08					
Sacramento		56.75				8,556 02					
San Joaquin		8.50				2,295 39					
Santa Clara		43.00				29,621 27					
Shasta		2.15				1,686 99					
Stanislaus		22.63				5,184 79					
Sutter		10.00				2,099 54					
Tehama		40.54				27,051 91					
Tulare		12.65				4,594 56					
Yuba		15.87				7,762 87					
Northern Railway	148.40	15,498 65	2,300,000		10,396			5,301 96		5,094 04	
Alameda		6.85				570 16					
Colusa		62.81				8,255 02					
Contra Costa		23.75				2,569 29					
Solano		16.95				1,051 03					
Tehama		17.29				4,684 15					
Yolo		20.75				2,154 56					

San Pablo and Tulare Railroad	46.00	20,652	17	950,000	23,913	4,294	187	35	2,189	94	95	55	2,104	06			
Alameda	1.40				745,513		5,203	89			2,653	90		91	80		
Contra Costa	36.10				175,544		698	66			356	32		2,549	90		
San Joaquin	8.50													342	34		
Southern Pacific RR	957.02		17,763	47	17,000,000	309,617	76,840	2,625	55								
Fresno		17.43			2,726,100		32,659	39			1,339	04		1,286	51		
Kern		153.47			2,530,940		16,042	00			16,656	29		16,003	10		
Los Angeles		142.48					6,985	56			8,181	42		7,800	58		
Monterey		49.28					3,258	27			3,562	63		3,422	93		
San Benito		17.65					46,353	26			1,661	71		1,596	56		
San Bernardino		261.47					2,821,728				23,640	16		22,713	10		
San Diego		158.85					130,759				17,729	47		17,034	21		
San Francisco		7.36						1,470	81			750	11		720	70	
San Mateo		25.10						445,363				2,496	73		2,398	84	
Santa Clara		59.30						1,053,374				3,876	61		3,724	59	
Santa Cruz		2.15						38,492				272	29		291	63	
Tulare		62.48						1,109,862				5,365	95		5,155	54	
Totals		1,904.60			\$46,250,000	\$46,250,000	\$209,050	\$444,323	12	\$104,124	30	\$225,396	33	\$104,925	70	\$218,926	70

STATEMENT NO. 6—TAXES OF 1885.
Showing Assessed Value of Railroads for the year 1885, and the Amount of Taxes for State and County Purposes Delinquent on Railroads, Assessed by State Board of Equalization.

Name of Railroads, and Counties Through Which They Run.	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value per Mile.	Value of Delinquent Taxes.	Amount of Assessed Value and Delinquent in Each County.	Amount of Delinquent Tax for State Purposes.	Amount of Delinquent Tax for County Purposes.	Total Tax.
California Pacific Railroad	112.50	41.00	\$17,777.77	\$2,000,000.00	-----	\$10,880.00	-----	\$8,962.19
Napa50	-----	-----	-----	\$728,889.00	-----	-----	62.76
Sacramento	40.00	-----	-----	-----	8,889.00	-----	-----	5,376.00
Solano	31.00	-----	-----	-----	711,111.00	-----	-----	3,578.26
Yolo	-----	-----	-----	-----	551,111.00	-----	-----	\$28,859.21
Central Pacific Railroad	640.68	83.52	34,338.51	22,000,000.00	-----	119,680.00	-----	23,654.47
Alameda	45.00	-----	-----	-----	1,545,233.00	-----	-----	15,481.52
Butte	61.06	-----	-----	-----	2,096,710.00	-----	-----	24,237.97
Fresno	36.75	-----	-----	-----	1,261,940.00	-----	-----	15,849.97
Merced	30.25	-----	-----	-----	1,038,740.00	-----	-----	20,317.75
Nevada	112.75	41.00	-----	-----	3,871,668.00	-----	-----	54,048.49
Placer	2.46	-----	-----	-----	1,407,879.00	-----	-----	12,583.69
Sacramento	56.75	-----	-----	-----	84,473.00	-----	-----	886.04
San Francisco	8.50	-----	-----	-----	1,948,711.00	-----	-----	10,727.14
San Joaquin	58.80	-----	-----	-----	291,877.00	-----	-----	1,802.25
Santa Clara	2.15	-----	-----	-----	2,019,105.00	-----	-----	34,445.93
Shasta	22.63	-----	-----	-----	73,828.00	-----	-----	1,665.55
Sierra	10.00	-----	-----	-----	777,081.00	-----	-----	5,186.10
Stanislaus	40.54	-----	-----	-----	343,385.00	-----	-----	2,080.91
Sutter	12.65	-----	-----	-----	1,392,083.00	-----	-----	20,176.00
Tehama	15.87	-----	-----	-----	434,382.00	-----	-----	4,152.69
Tulare	-----	-----	-----	-----	544,952.00	-----	-----	8,037.00
Yuba	-----	-----	-----	-----	-----	-----	-----	375,013.47
Northern Railway	148.40	15,498.65	-----	2,300,000.00	-----	12,512.00	-----	785.18
Alameda	6.85	-----	-----	-----	106,166.00	-----	-----	7,846.16
Colusa	62.81	-----	-----	-----	973,470.00	-----	-----	2,359.25
Contra Costa	23.75	-----	-----	-----	368,093.00	-----	-----	1,996.02
Solano	16.95	-----	-----	-----	262,702.00	-----	-----	3,901.67
Tehama	17.29	-----	-----	-----	267,972.00	-----	-----	2,109.67
Yolo	20.75	-----	-----	-----	321,597.00	-----	-----	31,499.95

San Pablo and Tulare Railroad	46.00	19,565 21	900,000 00	\$27,392 00	4,896 00	248 17
Alameda ...	1.40					
Contra Costa	36.10					
San Joaquin	8.50					
Southern Pacific Railroad	957.02	17,763 74	17,000,000 00	309,617 00	92,480 00	3,579 17
Fresno	17.43					
Kern	153.47					
Los Angeles	142.48					
Monterey	49.28					
San Benito	17.65					
San Bernardino	261.47					
San Diego	158.85					
San Francisco	7.36					
San Mateo	25.10					
Santa Clara	59.30					
Santa Cruz	2.15					
Tulare	62.48					
Totals	1,904.60	\$104,943 88	\$44,200,000 00	\$240,448 00	\$474,915 93	\$715,363 93

In the report of the State Controller for the forty-second and forty-third fiscal years, at page 29, it will be found there is due for taxes for 1885, \$20,703.31. These figures were obtained by Mr. Colgan, State Controller from Messrs. Langhorne & Miller, but they are erroneous, in that they include the taxes of the North Pacific Railroad, amounting to \$5,339.38. See report of Controller for thirty-sixth and thirty-seventh fiscal years, page 108.

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STATEMENT NO. 7-TAXES OF 1886.

Showing Assessed Value of Railroads for the year 1886, and the Amount of Taxes for State and County Purposes Delinquent on Railroads, Assessed by State Board of Equalization, for the year 1886.

San Pablo and Tulare Railroad	46.00		19,564 21	900,000 00		5,040 00	
Alameda		1.40			27,392 00		189 00
Contra Costa		36.10			706,304 00		5,226 65
San Joaquin		8.50			168,304 00		731 73
Southern Pacific Railroad	957.02		17,763 47	17,000,000 00		95,200 00	
Fresno		17.43			309,617 00		3,065 20
Kern		153.47			2,726,160 00		32,441 30
Los Angeles		142.48			2,530,940 00		20,940 23
Monterey		49.28			875,384 00		6,915 53
San Benito		17.65			313,525 00		2,608 31
San Bernardino		261.47			4,644,616 00		38,085 85
San Diego		158.85			2,821,728 00		32,167 70
San Francisco		7.36			130,739 00		1,321 77
San Mateo		25.10			445,863 00		4,189 42
Santa Clara		59.30			1,053,374 00		6,443 70
Santa Cruz		2.15			38,192 00		492 68
Tulare		62.48			1,109,862 00		12,652 42
Totals		1,904.60		\$12,000,000 00	\$42,600,000 00	\$238,560 00	\$10,397 05
							\$648,957 06

On page 29 of the Controller's report for the forty-second and forty-third fiscal years, it is stated that the Southern Pacific System owes State and county taxes for 1886, amounting to \$664,559 18; this should be \$648,957 05, a difference of \$15,602 13, which represents other roads, which I believe have since paid their taxes. See Controller's report for thirty-eighth and thirty-ninth fiscal years, pages 100 to 102. For Southern Pacific System taxes delinquent, see same report, 103 et seq.

STATEMENT No. 8—TAXES OF 1887.

Showing Assessed Value of Railroads for the year 1887, and the Amount of Taxes for State and County Purposes Delinquent on Railroads, Assessed by State Board of Equalization for the same year.

Names of Railroads and of Counties Through Which They Run.	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value per Mile.	Value of Property Delinquent for Taxes.	Amount of Delinquent in Each County.	Amount of Delinquent Tax for State Purposes.	Amount of Tax for County Purposes.	Total Amount of Delinquent Taxes.
California Pacific Railroad-----	112.50	-----	\$22,222 22	\$2,500,000 00	-----	\$15,200 00	-----	\$9,230 19
Napa-----	41.00	-----	-----	-----	\$91,111 00	-----	-----	43 56
Sacramento-----	.50	-----	-----	-----	11,111 00	-----	-----	7,484 45
Solano-----	40.00	-----	-----	-----	888,889 00	-----	-----	5,057 25
Yolo-----	31.00	-----	-----	-----	-----	-----	-----	\$37,015 45
Central Pacific Railroad-----	719.50	-----	25,017 37	18,000,000 00	-----	109,440 00	-----	-----
Alameda-----	83.52	-----	-----	-----	2,089,451 00	-----	-----	12,762 07
Butte-----	45.00	-----	-----	-----	1,125,782 00	-----	-----	11,123 73
Fresno-----	60.13	-----	-----	-----	1,504,295 00	-----	-----	15,725 11
Merced-----	36.75	-----	-----	-----	919,388 00	-----	-----	10,939 10
Nevada-----	30.25	-----	-----	-----	756,776 00	-----	-----	12,047 87
Placer-----	112.75	-----	-----	-----	2,820,709 00	-----	-----	35,033 21
Sacramento-----	41.00	-----	-----	-----	1,025,712 00	-----	-----	6,428 71
San Francisco -----	2.46	-----	-----	-----	61,543 00	-----	-----	706 39
San Joaquin-----	56.75	-----	-----	-----	1,419,736 00	-----	-----	8,306 78
Santa Clara-----	8.50	-----	-----	-----	212,648 00	-----	-----	1,160 56
Shasta-----	82.08	-----	-----	-----	2,503,426 00	-----	-----	33,717 25
Sierra-----	2.16	-----	-----	-----	53,787 00	-----	-----	1,125 22
Siskiyou-----	55.54	-----	-----	-----	1,388,465 00	-----	-----	13,088 76
Stanislaus-----	22.63	-----	-----	-----	566,143 00	-----	-----	8,310 24
Sutter-----	10.00	-----	-----	-----	250,174 00	-----	-----	1,451 03
Tehama-----	40.54	-----	-----	-----	1,014,204 00	-----	-----	10,540 49
Tulare-----	13.58	-----	-----	-----	339,736 00	-----	-----	3,370 18
Yuba-----	15.87	-----	-----	-----	397,025 00	-----	-----	5,414 01
Northern Railway-----	148.40	-----	20,215 63	3,000,000 00	-----	18,240 00	-----	295,740 71
Alameda-----	6.85	-----	-----	-----	138,477 00	-----	-----	727 80
Colusa-----	62.81	-----	-----	-----	1,269,744 00	-----	-----	9,380 26
Contra Costa-----	23.75	-----	-----	-----	480,121 00	-----	-----	8,495 66
Solano-----	16.95	-----	-----	-----	342,655 00	-----	-----	3,885 15
Tehama-----	17.29	-----	-----	-----	349,528 00	-----	-----	3,642 08
Yolo-----	20.75	-----	-----	-----	419,475 00	-----	-----	3,112 50
								41,483 45

STATEMENT No. 9—TAXES OF 1888.

Showing Assessed Value of Railroads for the year 1888, and the Amount of Taxes for State and County Purposes on Railroads, Assessed by State Board of Equalization for Same Year.

Name of Railroad Assessed, and of Counties Receiving Apportionment.	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value Per Mile.	Total Assessed Valuation.	Value Apportioned to Each County.	Amount of Tax for State Purposes.	Amount of Tax for County Purposes.	Total State and County Taxes.	
California Pacific Railroad.	112.50	41.00	\$22,222 22	\$2,500,000 00	\$911,111 00 11,111 00 888,889 00 688,889 00	\$12,600 00	\$8,365 66 55 11 7,520 00 5,082 45	*\$33,623 22	
Napa	.50								
Sacramento	40.00								
Solano	31.00								
Yolo									
Central Pacific Railroad.	747.14	83.52	20,076 56	15,000,000 00	1,676,794 00 903,445 00 1,207,203 00 737,813 00 607,316 00 2,263,632 00 823,139 00 49,388 00 1,139,345 00 1,701,651 00 1,647,884 00 43,165 00 1,669,968 00 454,332 00 200,766 00 813,904 00 272,640 00 318,615 00	75,600 00	11,147 09 7,615 83 7,498 46 7,348 61 9,692 76 25,797 60 6,015 14 526 96 6,711 79 866 00 24,652 34 16,632 88 2,674 69 995 79 8,084 40 1,624 93 3,879 59	11,214 00	
Alameda	45.00								
Butte	60.13								
Fresno	36.75								
Merced	30.25								
Nevada	112.75	41.00							
Placer	2.46								
Sacramento	56.75								
San Francisco	8.50								
San Joaquin	82.08								
Santa Clara	2.15								
Shasta	83.18								
Sierra	22.63								
Siskiyou	10.00								
Stanislaus	40.54								
Sutter	13.58								
Tehama	15.87								
Tulare									
Yuba									
Northern Railway	148.40	14,993 26	2,225,000 00			102,704 00 941,727 00 356,090 00 254,136 00 259,233 00 311,110 00		595 24 6,523 83 2,024 19 2,149 99 2,581 96 2,320 88	*\$18,312 76
Alameda	6.85								
Colusa	62.81								
Contra Costa	23.75								
Solano	16.95								
Tehama	17.29								
Yolo	20.75								

San Pablo and Tulare Railroad	46.00		19,565 21	900,000 00		27,392 00	4,536 00	204 34
Alameda		1.40				70,304 00		4,562 72
Contra Costa		36.10				166,304 00		901 17
San Joaquin		8.50						*10,294 23
Southern Pacific Railroad	1,022.33		13,694 20	14,000,000 00		238,690 00		1,494 19
Fresno		17.43				2,101,650 00		21,933 25
Kern		153.47				1,951,151 00		13,292 30
Los Angeles		142.48				1,494,586 00		14,866 07
Monterey		109.14				241,703 00		2,507 67
San Benito		17.65				3,580,625 00		26,670 38
San Bernardino		261.47				2,175,325 00		21,666 23
San Diego		158.85				100,789 00		1,076 41
San Francisco		7.36				74,633 00		601 10
San Luis Obispo		5.45				343,725 00		2,330 70
San Mateo		25.10				812,067 00		4,422 60
Santa Clara		59.30				20,442 00		297 35
Santa Cruz		2.15				855,614 00		5,000 45
Tulare		62.48						*186,756 60
Totals		2,076.37			\$34,625,000 00	\$174,510 00	\$302,116 90	\$476,626 90

* Paid December 28, 1888.

STATEMENT No. 10—TAXES OF 1889.
Showing Assessed Value of Railroads for the year 1889, and the Amount of Taxes for State and County Purposes on Railroads, Assessed by State Board of Equalization for Same Year.

	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value per Mile.	Total Assessed Valuation.	Value Appropriated to Each County.	Amount of Tax for State Purposes.	Amount of Tax for County Purposes.	Total State and County Taxes.
California Pacific Railroad	112.50	41.00	\$22,222 .22	\$2,500,000 00	\$91,111 00	\$18,050 00	\$8,606 53	\$8,606 53
Napa		.50			11,111 00		58 66	58 66
Sacramento		40.00			888,889 00		6,966 62	6,966 62
Solano		31.00			688,889 00		5,312 33	5,312 33
Yolo							*\$38,994 14	
Central Pacific Railroad	746.76	83.14		13,000,000 00		93,860 00		
Alameda		45.00			1,447,346 00		9,355 85	9,355 85
Butte		60.13			783,384 00		6,084 65	6,084 65
Fresno		36.75			1,046,775 00		8,085 41	8,085 41
Merced		30.25			639,764 00		6,474 92	6,474 92
Nevada		112.75			526,608 00		9,099 78	9,099 78
Placer		41.00			1,962,813 00		25,938 20	25,938 20
Sacramento					713,750 00		5,444 17	5,444 17
San Francisco		2.46			42,825 00		428 25	428 25
San Joaquin		56.75			987,935 00		6,636 78	6,636 78
Santa Clara		8.50			147,973 00		1,008 82	1,008 82
Shasta		82.08			1,428,883 00		21,693 95	21,693 95
Sierra		2.15			37,428 00		777 75	777 75
Siskiyou		83.18			1,448,042 00		11,265 76	11,265 76
Stanislaus		22.63			393,955 00		2,521 49	2,521 49
Sutter		10.00			174,086 00		1,058 43	1,058 43
Tehama		40.54			705,742 00		7,227 17	7,227 17
Tulare		13.58			236,408 00		1,602 84	1,602 84
Yuba		15.87			276,274 00		3,457 13	3,457 13
Northern Railway	385.25		9,085 00	3,500,000 00		25,270 00		
Alameda		10.50			95,393 00		559 82	559 82
Amador		8.00			72,680 00		783 49	783 49
Calaveras		9.80			89,033 00		1,093 32	1,093 32
Colusa		79.61			723,258 00		4,885 15	4,885 15
Contra Costa					215,749 00		1,438 05	1,438 05
El Dorado		23.75			277,547 00		4,240 91	4,240 91
		30.55			58,417 00		571 31	571 31

Sacramento	48.75		442,894 00	3,388 93
San Joaquin	29.80		270,733 00	1,835 56
Solano	33.45		303,894 00	2,381 50
Sonoma	30.52		277,874 00	2,003 05
Tehama	17.29		157,080 00	1,614 78
Yolo	56.80		516,028 00	4,014 69
 Southern Pacific Railroad	 1,493.77	 10,041 70	 15,000,000 00	 108,300 00
Alameda	1.40		14,058 00	102 34
Calaveras66		6,628 00	81 39
Contra Costa	36.10		362,506 00	2,457 79
Fresno	84.13		844,809 00	6,572 59
Kern	153.47		1,541,101 00	15,842 51
Los Angeles	193.08		1,938,852 00	20,288 38
Orange	23.78		238,732 00	2,151 72
Monterey	125.70		1,262,243 00	9,820 25
San Benito	17.65		177,236 00	1,894 03
San Bernardino	261.47		2,625,605 00	20,356 07
San Diego	158.85		1,595,125 00	22,778 38
San Francisco	7.36		73,907 00	739 07
San Joaquin	52.11		523,273 00	3,519 59
San Luis Obispo	33.25		333,887 00	2,931 52
San Mateo	25.10		252,047 00	1,534 05
Santa Barbara	27.00		271,125 00	1,860 82
Santa Clara	67.10		673,798 00	4,736 85
Santa Cruz	27.15		272,632 00	3,111 57
Stanislaus	36.36		365,116 00	2,365 95
Tulare	107.55		1,079,986 00	7,302 22
Ventura	54.50		547,273 00	6,133 07
 Totals	 2,738.28	 2,738.28	 \$34,000,000 00	 \$345,480 00
			\$34,000,000 00	\$314,876 21
				\$500,390 21

* Paid December 30, 1889.

STATEMENT No. 11—TAXES OF 1890.

Showing Assessed Value of Railroads for the year 1890, and the Amount of Taxes for State and County Purposes on Railroads, Assessed by the State Board of Equalization.

	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value per Mile.	Total Assessed Valuation.	Value Appropriated to Each County.	Amount of Tax for State Purposes.	Amount of Tax for County Purposes.	Total State and Taxes.
California Pacific Railroad	112.50	41.00	\$22,222.22	\$2,500,000.00	\$911,111.00	\$14,500.00	\$8,047.67	
Napa		.50			11,111.00		57.77	
Sacramento		40.00			888,889.00		6,365.55	
Solano		31.00			688,889.00		5,566.25	*\$35,037.24
Yolo								
Central Pacific Railroad	746.76	17,408.53	13,000,000.00	1,447,346.00	75,400.00			
Alameda		83.14			733,384.00		9,240.07	
Butte		45.00			1,046,775.00		6,406.34	
Fresno		60.13			639,764.00		7,751.17	
Merced		36.75			526,608.00		5,783.98	
Nevada		30.25			1,982,813.00		9,847.56	
Placer		112.75			713,750.00		23,719.05	
Sacramento		41.00			42,825.00		5,051.96	
San Francisco		2.46			987,935.00		441.09	
San Joaquin		56.75			147,973.00		5,272.17	
Santa Clara		8.50			1,428,893.00		996.99	
Shasta		82.08			37,428.00		25,171.80	
Sierra		2.15			1,448,042.00		830.90	
Siskiyou		83.18			393,955.00		13,321.98	
Stanislaus		22.63			174,085.00		2,902.43	
Sutter		10.00			705,742.00		905.24	
Tehama		40.54			236,408.00		7,172.45	
Tulare		13.58			276,274.00		1,820.34	
Yuba		15.87					3,356.92	
Northern Railway	385.25	7,787.15	3,000,000.00			17,400.00		
Alameda		10.50			81,766.00		473.31	
Amador		8.00			62,297.00		728.87	
Calaveras		9.80			76,314.00		931.03	
Colusa		79.61			619,935.00		3,822.41	
Contra Costa		23.75			184,945.00		1,301.42	
El Dorado		30.55			237,897.00		3,616.03	
Napa		6.43					460.66	

Sacramento		373,623 00	
San Joaquin		232,057 00	
Solano		260,481 00	
Sonoma		237,663 00	
Tehama		134,640 00	
Yolo		442,310 00	
Southern Pacific Railroad	1,522.60	9,852 21	15,000,000 00
Alameda	1.40		13,793 00
Calaveras66		6,502 00
Contra Costa	36.10		355,665 00
Fresno	84.13		828,867 00
Kern	153.47		1,512,020 00
Los Angeles	195.98		1,930,837 00
Merced	21.22		209,064 00
Monterey	130.13		1,282,069 00
Orange	23.78		234,286 00
San Benito	17.65		173,891 00
San Bernardino	361.47		2,557,059 00
San Diego	158.85		1,565,025 00
San Francisco	7.36		72,512 00
San Joaquin	52.11		513,399 00
San Luis Obispo	33.25		327,586 00
San Mateo	25.10		247,291 00
Santa Barbara	27.00		266,010 00
Santa Clara	67.10		661,084 00
Santa Cruz	27.15		267,488 00
Stanislaus	36.54		360,006 00
Tulare	107.55		1,059,906 00
Ventura	54.50		536,946 00
Totals	2,766.96	2,766.96	\$33,500,000 00
			\$33,500,000 00
			\$194,300 00
			\$313,918 07
			\$508,218 07

* Paid December 29, 1890.

STATEMENT No. 12—TAXES OF 1891.

Showing Assessed Value of Railroads for the year 1891, and the Amount of Taxes for State and County Purposes on Railroads, Assessed by the State Board of Equalization for Same Year.

Names of Railroads Assessed and of Counties Receiving Apportionment.	Number of Miles of Each Railroad Operated in the State.	Number of Miles of Each Railroad in Each County.	Assessed Value per Mile.	Total Assessed Valuation.	Value Apportioned to Each County.	Amount of Tax for State Purposes.	Amount of Tax for County Purposes.	Total State and County Taxes.	First Instalment Paid.	Second Instalment Paid.
California Pacific R. R.—	112.50	—	\$22,222.22	\$2,500,000	\$911,111	\$11,150.00	—	7,937.30		
Napa	41.00	—	—	—	11,111	—	—	61.55		
Sacramento	.50	—	—	—	888.889	—	—	8,025.33		
Solano	40.00	—	—	—	688.889	—	—	4,617.34		
Yolo	31.00	—	—	—	—	—	—	—	Nov. 28, '91	Apr. 25, 92
Central Pacific Railroad	746.76	—	17,408.53	13,000,000	—	57,980.00	—	—		
Alameda	83.14	—	—	—	1,447,346	—	—	9,008.49		
Butte	45.00	—	—	—	783,384	—	—	7,843.41		
Fresno	61.06	—	—	—	1,062,995	—	—	8,459.19		
Merced	36.75	—	—	—	639,764	—	—	5,981.49		
Nevada	30.25	—	—	—	526,668	—	—	10,026.62		
Placer	112.75	—	—	—	1,962,813	—	—	22,436.39		
Sacramento	41.00	—	—	—	713,750	—	—	5,294.63		
San Francisco	2.46	—	—	—	42,895	—	—	441.10		
San Joaquin	56.75	—	—	—	987,935	—	—	5,403.53		
Santa Clara	8.50	—	—	—	147,973	—	—	1,047.30		
Shasta	82.08	—	—	—	1,428,833	—	—	25,657.63		
Sierra	2.15	—	—	—	37,428	—	—	862.34		
Siskiyou	83.18	—	—	—	1,448,042	—	—	15,262.36		
Stanislaus	22.63	—	—	—	393,955	—	—	3,430.34		
Sutter	10.00	—	—	—	174,056	—	—	1,486.69		
Tehama	40.54	—	—	—	705,742	—	—	7,403.93		
Tulare	12.65	—	—	—	220,218	—	—	2,045.83		
Yuba	15.87	—	—	—	276,274	—	—	3,508.61	Nov. 28, '91	Apr. 25, 92
Northern Railway	385.25	—	10.50	7,787.15	3,000,000	—	—	13,380.00		
Alameda	—	—	8.00	—	—	81,786	—	430.56		
Amador	—	—	9.80	—	—	62,297	—	843.50		
Calaveras	—	—	33.91	—	—	76,314	—	995.13		
Colusa	—	—	23.75	—	—	264,063	—	2,519.16		
Contra Costa	—	—	—	—	—	184,945	—	1,545.70		

El Dorado	30.55		237,897		3,815 87	
Glenn	45.70		355,872		3,386 84	
Napa	6.43		50,072		452 65	
Sacramento	48.75		379,623		2,823 42	
San Joaquin	29.80		232,057		1,285 60	
Solano	33.45		260,481		2,357 78	
Sonoma	30.52		237,663		1,659 86	
Tehama	17.29		134,640		1,419 11	
Yolo	56.80		442,310		3,003 28	
Southern Pacific R. R.	1,654.87		15,500,000		39,918 46	
Alameda	1.40		9,366 29		Nov. 28, 91	
Calaveras	.66			69,130 00		
Contra Costa	36.10			13,113	92 32	
Fresno	133.00			6,182	80 61	
Kern	166.87			338,123	2,887 57	
Los Angeles	196.98			1,245,717	10,009 71	
Merced	52.50			1,562,953	15,692 05	
Monterey	130.03			1,835,606	15,122 52	
Orange	23.78			491,733	4,625 57	
San Benito	17.65			1,217,899	12,836 66	
San Bernardino	261.47			222,730	1,945 34	
San Diego	158.95			165,316	1,888 06	
San Francisco	7.36			2,449,044	37,968 00	
San Joaquin	52.11			1,487,835	18,657 45	
San Luis Obispo	33.25			68,936	710 04	
San Mateo	25.10			488,078	2,685 22	
Santa Barbara	27.00			311,429	2,636 21	
Santa Clara	67.10			235,094	1,706 18	
Santa Cruz	27.15			252,890	2,272 07	
Stanislaus	66.86			628,478	4,581 65	
Tulare	126.15			254,295	2,968 40	
Ventura	54.50			532,569	4,707 91	
Totals	2,899.38			1,181,558	10,893 68	
				510,463	5,087 58	
					229,138 80	Nov. 28, 91
						Apr. 25, 92
						\$494,433 66
						\$342,733 66
						\$34,000,000
						\$34,000,000

STATEMENT NO. 13—TAXES OF 1892.

Showing Assessed Value of Railroads for the Year 1892, and the Amount of Tax for State and County Purposes on Railroads, Assessed by the State Board of Equalization for Same Year.

Names of Railroads and of Counties Through Which They Run.	Number of Miles Operated.	Number of Miles in Each County.	Total Value per Mile.	Total Assessment.	Amount Apportioned to Each County.	Amount Due of State Taxes.	Total Amount of Tax Due Each County.	* First Instalment.	Second Instalment.	Total Assessment.
California Pacific R.R. Co.	112,50	41.00	\$17,777.77	\$2,000,000	\$728,889 8,880 711,711 551,111	\$8,680.00 — — —	\$6,102.86 68.08 5,321.80 3,623.18	\$4,340.00 3,051.43 34.04 2,660.90	\$4,340.00 3,051.43 34.04 2,660.90	\$23,795.92 1,811.59
Central Pacific Railroad -	746.76	83.14	17,408.53	13,000,000	1,447,346 783,384 1,062,965	\$56,420.00	8,456.50 7,545.72 8,374.16	28,210.00 4,229.25 3,772.86	28,210.00 4,229.25 3,772.86	—
Alameda	—	45.00	—	—	—	—	5,738.38	2,869.19	2,869.19	—
Butte	—	61.06	—	—	—	—	10,616.42	5,308.21	5,308.21	—
Fresno	—	36.75	—	—	—	—	24,648.14	12,324.07	12,324.07	—
Merced	—	30.25	—	—	—	—	6,807.78	3,403.89	3,403.89	—
Nevada	—	112.75	—	—	—	—	42.826	21.4.13	21.4.13	—
Placer	—	41.00	—	—	—	—	6,023.00	3,011.50	3,011.50	—
Sacramento	—	2.46	—	—	—	—	991.08	495.54	495.54	—
San Francisco	—	56.75	—	—	—	—	21,562.34	10,781.17	10,781.17	—
San Joaquin	—	8.50	—	—	—	—	866.84	433.42	433.42	—
Santa Clara	—	82.08	—	—	—	—	15,436.12	7,718.06	7,718.06	—
Shasta	—	2.15	—	—	—	—	3,564.24	1,782.12	1,782.12	—
Sierra	—	83.18	—	—	—	—	985.32	492.66	492.66	—
Siskiyou	—	22.63	—	—	—	—	7,140.74	3,570.37	3,570.37	—
Stanislaus	—	10.00	—	—	—	—	2,127.30	1,063.65	1,063.65	—
Sutter	—	40.54	—	—	—	—	3,675.98	1,837.99	1,837.99	—
Tehama	—	12.65	—	—	—	—	—	—	—	—
Tulare	—	15.87	—	—	—	—	—	—	—	—
Yuba	—	—	—	—	—	—	—	—	—	—
Northern Railway	386.25	—	8,000.00	3,082,000	—	13,375.88	6,687.94	6,687.94	6,687.94	—
Alameda	—	10.50	—	—	—	—	397.68	198.84	198.84	—
Amador	—	8.00	—	—	—	—	1,002.24	501.12	501.12	—
Calaveras	—	9.80	—	—	—	—	1,031.74	515.87	515.87	—
Colusa	—	33.91	—	—	—	—	2,078.00	1,039.00	1,039.00	—
Contra Costa	—	23.75	—	—	—	—	1,426.22	713.11	713.11	—
Eldorado	—	30.55	—	—	—	—	3,827.30	1,913.65	1,913.65	—
Glenn	—	45.70	—	—	—	—	3,342.66	1,671.33	1,671.33	—

Napa	6.43		51,440	222 74
Sacramento	48.75		390,000	1,863 70
San Joaquin	29.80		238,400	1,468 54
Solano	33.45		267,600	1,991 22
Sonoma	30.52		244,160	1,491 74
Tehama	17.20		138,320	1,405 34
Yolo	56.80		454,400	1,026 30
				40,037 74
Southern Pacific Railroad	1,701.40		15,800,000	34,286 00
Alameda	1.40		9,286.47	34,286 00
Calaveras	.66			34,286 00
Contra Costa	56.30			34,286 00
Fresno	154.83			34,286 00
Kern	166.87			34,286 00
Los Angeles	195.98			34,286 00
Mered	52.50			34,286 00
Monterey	130.03			34,286 00
Orange	23.78			34,286 00
San Benito	17.65			34,286 00
San Bernardino	261.47			34,286 00
San Diego	158.85			34,286 00
San Francisco	7.36			34,286 00
San Joaquin	52.11			34,286 00
San Luis Obispo	33.25			34,286 00
San Mateo	25.10			34,286 00
Santa Barbara	27.00			34,286 00
Santa Clara	67.10			34,286 00
Santa Cruz	27.15			34,286 00
Stanislaus	56.86			34,286 00
Tulare	130.65			34,286 00
Ventura	54.50			34,286 00
			\$33,882,000	\$236,849 70
Totals	2,095.91		2,945.91	\$236,849 70
			\$147,047 88	\$236,849 70
			\$326,651 52	\$236,849 70
				\$473,699 40

* First installment paid.



